MAY 1, 1997

1997-1999 AGP

ANNUAL GROWTH POLICY

POLICY ELEMENT

Recommendations for the Administration of Montgomery County, Maryland's Adequate Public Facilities Ordinance

Staff Draft

Montgomery County Department of Park & Planning
Maryland-National Capital Park & Planning Commission

STAFF DRAFT

1997-1999 ANNUAL GROWTH POLICY
POLICY ELEMENT

for

MONTGOMERY COUNTY, MARYLAND

Including

Recommendations for Administration of the Adequate Public Facilities Ordinance

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
May 1, 1997

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ABSTRACT

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ABSTRACT: Montgomery County Code Section 33A-15 establishes the process by which the Montgomery County Council provides guidance for the management of growth. The Code requires the Council to adopt an Annual Growth Policy Policy Element by November 1 of odd-numbered year to be effective for the next two years. The Montgomery County deaprtment of Park and Planning is required to release this Staff Draft AGP Policy Element by May 1 of odd-numbered years for consideration by the Montgomery County Planning Board and transmittal to the County Executive and to the County Council by June 15..

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1997-1999 Policy Issues

This is the second Annual Growth Policy (AGP) "Policy Element," a biennial document devoted to research and analysis of growth policy issues identified by the County Council. Previously, the Council considered changes to the County's growth policies annually. Staging ceilings continue to be adopted annually (by July 15 of each year) in the AGP Ceiling Element.

There are thirteen issues addressed in this second AGP Policy Element. They are summarized below. This Staff Draft Policy Element contains the recommendations of the staff of the Montgomery County Department of Park and Planning and are presented to the Montgomery County Planning Board. The Board's recommendations will be transmitted to the County Council and the County Executive by June 15, 1997. The County Executive will review the Planning Board's recommendations and transmit his recommendations by August 1, 1997. The County Council will review these issues and will adopt those changes meeting with its approval by November 1, 1997.

Issue 1: Adequacy of School Facilities - Ceiling Flexibility

In the Adopted FY97 Annual Growth Policy, the County Council directed "the staffs of the Executive, the Board of Education, the Planning Board, and the Council [to] develop and evaluate one or more options for ceiling flexibility in the APFO school test."

On January 14, 1997, the Board of Education passed a resolution which requested "that the Annual Growth Policy test for school adequacy be modified to use 100 percent as the maximum allowable in tests of cluster capacity."

This report contains a review of the current test for school adequacy, the Board of Education's proposal, and options for ceiling flexibility in the AGP's school adequacy test. This includes a new approach developed for debate purposes by the staffs of the Executive, the Board of Education, the Planning Board, and the Council for this AGP Policy Element. It also includes an examination of issues that are raised by ceiling flexibility, whether for roads, schools or other facilities.

Issue 2: Friendship Heights Policy Area

The County Council directed the Planning Board, with the aid of the Executive, to "perform the necessary analysis to allow the creation of a policy area in the Friendship Heights Metrorail Station area, including delineation of the policy area and the timing of its creation."

The Park and Planning Department recommends that the County establish a Friendship Heights Metro Station Policy Area with the same boundaries as the Friendship Heights Sector Plan Area . Staff recommends that the gross staging ceilings for the new policy area be set at 13,213 jobs and 4,502 housing units. This would result in net remaining capacities for the new policy area of 2,650 jobs and 800 housing units. It would also result in net remaining capacities for the remaining Bethesda/Chevy Chase policy area of 1,059 jobs and 5,974 housing units.

Issue 3: Glenmont Policy Area

The County Council directed the Planning Board, with the aid of the Executive, to "perform the necessary analysis to allow the creation of a policy area in the Glenmont Metrorail Station area, including delineation of the policy area and the timing of its creation."

The Park and Planning Department recommends establishing a Glenmont Metro Station Policy Area in Traffic Zones 302, 303, and 304. Staff recommends that the gross staging ceilings for the new policy area be set at 927 jobs and 1,910 housing units. This would result in net remaining capacities for the new policy area of 200 jobs and 500 housing units. It would also result in net remaining capacities for the remaining Kensington/Wheaton policy area of 2,660 jobs and 2,762 housing units.

Issue 4: Monitoring and Evaluating LATR Standards

The County Council directed "the Planning Board, with the aid of the Executive, and after consulting interested citizens, [to] monitor and evaluate congestion and pedestrian use at intersections above 1,525 Critical Lane Volume to recommend whether the Local Area Transportation Review standards first adopted in the FY95 Annual Growth Policy should be adjusted."

Park and Planning staff concludes that the LATR standards adopted in the FY 1995 Annual Growth Policy should be retained. The standards, ranging between 1,450 in rural areas and 1,800 in Metro Station areas, recognize the acceptance of increasing levels of congestion in areas of the County served by higher levels of transit service. Staff also concludes that the Critical Lane Volume method should continue to be used as the basis for setting standards and measuring congestion at intersections in Montgomery County.

Because of its complexity, this issue is being addressed in a separate report, entitled "Monitoring and Evaluating Stardards Used in Local Area Transportation Reviews," which is available from the Transportation Planning Division of the Montgomery County Department of Park and Planning. This policy element includes the executive summary from that report.

Issue 5: Pipeline Reform

This issue addresses concerns raised by the large and generally inactive pipeline of approved non-residential development. The main concern is that development capacity for new non-residential projects is scarce in some areas of the County, while, at the same time, there are non-residential projects that have been in the pipeline for a long time

(reserving development capacity) but which have not yet started. The fear is that "dead" projects are keeping viable projects from being approved.

This issue was studied in depth by the Planning Board for the previous (1995-1997) Policy Element. That review included significant public and private sector input. Among the alternatives debated were shortening the time limit on an APF approval retroactively for projects that have shown no activity for a certain period of time (say, six or nine years), allowing the Planning Board to vary time limits on future APF approvals based on project size and type, and permitting projects in the pipeline to transfer capacity to a project in the queue. Of these, only reducing time limits on future approvals was endorsed by the Planning Board (although the Board suggested that transferable staging ceiling might be an appropriate tool for encouraging demolition of obsolete structures in redevelopment areas). The County Executive endorsed reductions on future approval time limits but also endorsed transferable staging ceiling on a countywide basis. The bulk of the public testimony supported both as well. The issue was referred to the Council's Planning, Housing and Economic Development Committee, which has not yet addressed the issue.

This policy element contains a synopsis of the previous analysis and review, including updated figures on the age of the pipeline, comparisons of the pace of development activity to the pace of the delivery of new transportation capacity, and staff recommendations for further consideration of this issue.

Issue 6: Alternative Review Procedure for Metro Station Policy Areas

In the FY97 Annual Growth Policy, the County Council directed "The Planning Board, with the aid of the Executive, [to] conduct the Comprehensive Local Area Transportation Reviews necessary to allow the Alternative Review Procedure for Metro Station Policy Areas to be used in the Shady Grove, Friendship Heights, and Glenmont Policy Areas. The Council may later decide not to require this review in a policy area if there are no plans to develop a transportation management organization in the area or if the analysis cannot be scheduled in the Planning Board's work program."

The Executive does not plan to establish TMOs for Friendship Heights or Glenmont at this point. Park and Planning staff have not completed the comprehensive local area review for Shady Grove, but are confident that its scheduled completion by early fall will be timely.

Issue 7: Alternative Review Procedure for Limited Residential Development

The Adopted FY97 AGP states that "the Planning Board, with the aid of the Executive, must review the effectiveness of this procedure, including the amount, type, and location of approvals, the amount of funds generated from the Development Approval Payment, and an assessment of whether the funding is sufficient to meet transportation needs generated by development approved under the procedure. The Board must also recommend whether the procedure should be extended and whether there should be a different Development Approval Payment."

The goal of the Alternative Review Procedure, added to the AGP in FY94, is to encourage residential development by allowing developers to meet their public facilities

requirements by paying a fee to the County rather than constructing the transportation infrastructure that the AGP tests would otherwise require of them. The procedure is scheduled to sunset at the end of FY98.

The Park and Planning Staff believe the Alternative Review Procedure for Limited Residential Development is not functioning as a stimulus to housing construction but rather acts as a limited "escape valve" for some types of development in moratorium areas. This may be a useful function, but it is not what was intended.

Staff's final recommendation on whether the Alternative Review Procedure for Limited Residential Development should be retained depends on the assessment by the Department of Public Works and Transportation, which will be available May 1. Staff believes the difficulty in programming transportation improvements with DAP revenues is the basic potential objection to continuing the Procedure.

Staff also suggests that if the Procedure is retained, there are changes which should be considered for both the Procedure and in how the Procedure is administered. These will not address all of the Procedure's shortcomings, but will improve it.

Finally, staff does not recommend that large-lot residential development in Fairland/White Oak proceed ahead of transportation improvements, even though the construction of such development is a goal of the Fairland Master Plan.

Issue 8: Adjustment of Silver Spring/Takoma Park Policy Area Boundaries to Accomodate Takoma Park Annexation

On July 1, 1997, a portion of the City of Takoma Park will be annexed by the County. This requires adjustment to the boundaries of the Silver Spring/Takoma Park policy area. Policy area boundaries do not change automatically; they require an affirmative vote of the County Council.

The Park and Planning Department recommends that the annexed Takoma Park land be added to the Silver Spring/Takoma Park policy area and that the staging ceilings in the new Silver Spring/Takoma Park policy area be increased an amount equal to the existing and approved development in the annexed area. This would result in net remaining capacities of 565 jobs and 2,363 housing units. These are the same net remaining capacities that are currently available in the Silver Spring/Takoma Park Policy Area.

Issue 9: AGP Transportation Performance Indicators

Transportation network adequacy is the only reason any area of the County is in moratorium for new subdivisions. Transportation service levels therefore have a heightened importance in our growth management policies and procedures. However, because we focus on comparing future land uses with future transportation facilities, it is unclear how well the transportation network is functioning at present, and whether it is getting worse or better. There is interest in including in the AGP measures of the current "performance" of the transportation network. This section of the AGP Policy Element includes a

review of various transportation performance indicators and addresses issues surrounding the measurement of the transportation network's performance.

Issue 10: Alternative APF Process Proposed by SMBIA

The Suburban Maryland Building Industry Association was expected to release a proposed amendment or alternative to the current process for administering the Adequate Public Facilities Ordinance. As of "press time" for the Staff Draft Policy Element, SMBIA had not yet released their recommendations. Park and Planning Staff will review the proposal promptly upon its release and bring its findings to the Planning Board.

Issue 11: Regulatory Procedures Governing Re-Use of Existing Buildings and Revision of Approved Subdivision Plans

A facet of the "pipeline reform" issue is the extent to which subdivision regulations may inhibit buildout of the pipeline of approved development. One of the ways regulations *could* inhibit construction of approved projects is if they make it difficult for developers to respond to changing markets by revising their approved plans. Additionally, there is interest in seeing how these regulations may affect the re-use of existing buildings. This chapter discusses how subdivision regulations are applied in these instances.

Issue 12: Effect of Advanced Transportation Management Systems on Montgomery County's Transportation Network

Advanced Transportation Management Systems (ATMS) allow the existing transportation network to be used more efficiently by using real-time data to help both system operators and users make better-informed decisions about transportation alternatives (such as mode and route choice and when to travel). ATMS therefore increases the capacity of the the transportation network. This report discusses methods to measure the effectiveness of ATMS techniques. This work has AGP implications because it might be possible for a developer to provide ATMS enhancements to meet Policy Area Transportation Review or Local Area Transportation Review, rather than provide additional roads, widen intersections, or mitigate trips.

Park and Planning Department staff recommend that the County Council direct the Planning Board, with the aid of the Executive, to evaluate the capacity associated with various Advanced Transportation Management Systems techniques and delegate to the Planning Board the authority to develop revised Policy Area Transportation Review and Local Area Transportation Review guidelines based on its findings.

Issue 13: AGP Treatment of Productivity Housing and Personal Living Quarters Projects

Park and Planning Department staff recommend that Productivity Housing subdivisions be approvable in policy areas with no staging ceiling capacity under the Special Ceiling Allocation for Affordable Housing only when they meet the current definition of "affordable housing" in the AGP. Staff recommend that Personal Living Quarters be exempt from the AGP's transportation tests and schools test during the three-year pilot program.

Appendix 1: Development Trends

In accordance with the requirements of the AGP resolution, this report includes a review of residential and non-residential development trends, including subdivision approvals, building permits, building completions, and conditions in the housing and commercial space markets.

Issue One

Adequacy of Public School Facilities

In the Adopted FY97 Annual Growth Policy, the County Council directed "the staffs of the Executive, the Board of Education, the Planning Board, and the Council [to] develop and evaluate one or more options for ceiling flexibility in the APFO school test."

On January 14, 1997, the Board of Education passed a resolution which requested "that the Annual Growth Policy test for school adequacy be modified to use 100 percent as the maximum allowable in tests of cluster capacity."

The following is a review of the current test for school adequacy, the Board of Education's proposal, and options for ceiling flexibility in the AGP's school adequacy test. To introduce the topics and provide the perspective of the Montgomery County Public Schools (MCPS), the initial sections of this review are quoted from MCPS memoranda to the Board of Education regarding the schools test. There is then a review of an interagency staff working group that addressed many of these issues in 1992 and a review of a previous proposal for ceiling flexibility for schools (1993). Finally, there is new approach developed for debate purposes by the staffs of the Executive, the Board of Education, the Planning Board, and the Council for this AGP Policy Element.

Recent Board of Education Studies and Actions

The following is taken from a July 22, 1996 memorandum to the Board of Education from Superintendent Paul L. Vance. The memorandum was prepared for a BOE discussion of the APFO and school overutilization.

Adequate Public Facilities Ordinance and the Annual Growth Policy

Montgomery County's Adequate Public Facilities Ordinance (APFO) was first adopted in 1973. The APFO directs the Planning Board to approve preliminary subdivision plans only after finding that public facilities will be adequate to serve the subdivision. This involves predicting future demand from private development and comparing it to the capacity of existing and programmed public facilities. The APFO is a regulatory tool that deals only with the timing of subdivision development, and plays no role in determining what are appropriate land uses and densities for areas of the County. That is the role of master plans and zoning.

In the first years of the APFO, the focus was primarily on sewerage systems that constrained development throughout the mid-1970s. In 1981, the system incorporated traffic capacity, and in the mid-1980s, equal attention was given to school facilities. The result

of these refinements to the APFO was the institution of the County's Annual Growth Policy (AGP). The AGP provides guidelines for establishing the adequacy of both school and road facilities — "the school test" and the "road test." The first Annual Growth Policy took effect in FY 1988.

MCPS and school communities have been keenly aware of the consequences of rapid residential development in the 1980's. For over a decade, the extensive use of relocatable classrooms has been necessary to keep up with development. In the 1990's, although development has slowed greatly, the school system still has to use more than 200 relocatable classrooms to handle continuing increases in enrollment.

When the AGP was first being developed, MCPS staff worked closely with County agencies to develop guidelines for the school portion of the policy. The guidelines for judging school adequacy have not changed since the AGP went into effect. However, concerns have frequently been raised over the limited restraint that the AGP has yielded in terms of schools. Since its inception, no area of the County has "failed" the AGP test for school adequacy, while many areas have been closed to development due to inadequate roads.

School Test Guidelines

The guidelines used by the Montgomery County Planning Board, County Executive, and County Council to evaluate school adequacy incorporate MCPS enrollment projections, program capacities for schools, and any additional capacity (additions and new schools) that is programmed. The school system's 21 high school clusters are the geographic area evaluated each year in the school test. Elementary, middle, and high schools' capacities in each cluster are evaluated separately in the AGP. Each level has 10 percent additional capacity factored in above the MCPS program capacity for schools. This is done to recognize the potential for non-capital solutions such as boundary changes and short-term use of relocatable classrooms to accommodate a limited amount of overutilization. The methodology also considers space available in adjacent clusters that may be factored in for clusters that otherwise would be deficit. These techniques allow a very flexible test of school capacity.

The AGP test for schools looks four years ahead in its evaluation of facility capacities. This is the same time period used for evaluating road capacities. The four-year period represents the average length of time it will take a development plan to proceed through the governmental and construction phases to occupancy and, hence, the generation of additional students (or traffic on the roads).

The AGP evaluation process enables the County Council to links the effects of enrollment trends and capital projects to decisions on whether or not to allow approval of additional residential subdivisions in the coming year. Each year, the new MCPS enrollment forecast and County Council adopted capital improvements program are factored into the evaluation of facility space four years into the future. By July 15 of each year, the County Council must adopted the AGP for the subsequent fiscal year. During this fiscal year, the results of the AGP schools and road tests will direct the Montgomery County Planning Board to either allow or not allow subdivision approvals in the 21 high school cluster areas for the schools test, and the 27 policy areas for the roads test.

Results of the AGP Schools Test

To date no cluster has been closed to subdivision approvals based on inadequate school capacity. Our ambitious school construction program has been a very important factor in keeping up with new development. Since 1985, 28 new schools have been opened — 21 elementary schools, 5 middle schools, and 2 high schools. In addition, 5 schools have been reopened — 2 elementary schools and 3 middle schools. The expansion of our school inventory has been essential in our ability to house the school system's increase in enrollment of 27,000 since 1983.

The County's need to keep up with new development through construction of new schools and additions to existing ones has greatly strained capital budget resources. The high level of demand for new space has competed directly with the modernization of older buildings. The last major school building period was during the Baby Boom era of enrollment growth in the 1960's and early 1970's. Today, there exists a large inventory of schools reaching the end of their useful life cycle of approximately 30 years. Had the pace of residential development been slower, it is conceivable that more of these older buildings could have received modernizations in a more timely manner. At the same time, it must be noted that our modernization schedule is constrained by the supply of holding facilities and the requirement to, in most cases, move students out of schools undergoing modernizations for either one or two years.

In spite of the large number of new and reopened facilities, an almost equal number of schools have spent several years being overutilized awaiting new capacity. Today, the school system continues to house some 5,000 students in more than 200 relocatable classrooms. Given these conditions, it is understandable that many communities feel that residential development in the County has not been closely coordinated with school facility space in spite of the efforts of the AGP. Concerns have often been raised by the community, as well as Board of Education members, that the AGP test is too loose. Expressions of this view have been met with counter arguments over the legal issues surrounding any tighter test for school facilities.

In FY 1994, the County's commitment was tested following the outcome of the AGP school test. In that year, it appeared that for the first time that a cluster would need to be closed to subdivision approvals based on a deficit in high school capacity. The cluster was Paint Branch where high school enrollment growth was projected to outstrip the available high school space both within the cluster's high school and in adjacent high school clusters. However, the majority of the County Council felt that the amount of the deficit was only marginal and succeeded in avoiding shutting down the area by programming additional capacity at Sherwood High School. The degree of deficit in the Paint Branch cluster after the AGP test methodology was applied amounted to 19 students over capacity. The addition of Sherwood was sufficient to relieve, on paper, this deficit and leave the cluster open. In subsequent AGP years, the factoring in of the new Northeast Area High School has enabled the Paint Branch cluster to pass the AGP test.

As an outcome to the close call in the Paint Branch cluster, the County Council has a standing request that the Council, Planning Board, County Executive and MCPS staff search for a mechanism to provide "ceiling flexibility" in the AGP school test. In the evaluation of road capacity, a ceiling flexibility provision enables developers to pay

directly for transportation capacity, or mitigation, as a means to go ahead with development in areas otherwise closed due to transportation capacity. The motivation for offered flexibility to land owners is the reluctance to unduly restrict property rights. Land use laws limit government's power considerably over these rights.

At the present time, the issue of adding ceiling flexibility to the AGP school test remains unresolved. MCPS staff has consistently made the point that the test is already highly flexible and the model for allowing developers to pay directly for capacity is not easily applied to schools.

If the school test were tightened up to evaluate space only at the cluster level, perhaps there could be more of a basis for supporting ceiling flexibility and appropriate developer mitigation approaches. Given the current school test, and with the timing of the new Northeast and Northwest Area high schools now falling within the four-year window that the AGP judges capacity, the issue of high school enrollment deficits is no longer the issue it was a few years ago. Furthermore, capacity put in place already at the elementary and middle school levels, (with some still to come) avoids deficits in our 21 clusters.

In the 1990's, the County's new housing market has reflected moderate growth in our local economy. While a large pipeline of new residential subdivisions exists, number of 33,000 approved units, the pace of this development is expected to be far below what was experienced in the 1980's. Today's overutilization of school facilities, most prominent at the secondary level, is driven most by the aging of the student population already residing in the County, not new home construction. Any tightening of residential development at this stage would have little impact for the remainder of the 1990's on secondary school enrollments where our construction program is now focused. The most significant impact of a more restrictive school test in the AGP would be in the development of Clarksburg, the County's last major frontier for large scale residential development. In most other areas of the County, development of large scale residential subdivisions have either progressed to near completion or these subdivision plans have received approval and are therefore beyond the point of review.

In summary, given what have already accomplished in constructing more school space, and the slowdown in the building market, MCPS appears to have cleared the hurdle in bringing capacity on line that ensures that our 21 clusters pass the AGP schools test.

The next month (August 27, 1996), the Board of Education passed the following resolution:

RESOLVED, That the Board of Education schedule time to discuss and adopt appropriate action recommendations to go to the County Council, County Executive, and the Planning Board to improve or change the Adequate Public Facilities Ordinance and the Annual Growth Policy so that they more clearly and strongly support school system policies and the need for appropriate school facilities that are not overcrowded.

On January 14, 1997, the Board of Education discussed and approved a resolution requesting that the AGP test for school adequacy be modified to use 100 percent utiliza-

tion (rather than the current 110 percent) as the maximum allowable in test of cluster capacity.

Tables 1a, 2a, and 3a show cluster enrollment and capacity projections for each cluster using the current 110 percent test. Tables 1b, 2b, and 3b show cluster enrollment and capacity projections using the proposed 100 percent test. The tables show that the AGP test at either 100 percent or 110 percent results in a finding of adequacy for all clusters at the elementary and middle school levels. At the high school level, however, while all clusters pass the current AGP test using 110 percent of capacity, four clusters would be found inadequate using the 100 percent rule. These clusters are Damascus, Walter Johnson, Wheaton, and Thomas S. Wooton.

At the elementary school level, no cluster's projected enrollment attains 110 percent of projected capacity; in two clusters enrollment will exceed 100 percent, however. At the middle school level, one cluster exceeds 110 percent of capacity (Rockville) by 2 students; ten clusters will exceed 100 percent of capacity. At the high school level, enrollment in four clusters will exceed 110 percent of capacity; nine clusters exceed 100 percent of capacity.

In all tables, enrollment and capacity projections are by MCPS staff, based upon Council-funded program capacities and are for four years into the future. The methodology therefore counts schools that will be completed within the next four years against enrollment projection for four years from now.

The 1992 Interagency Working Group

In 1992, the County Council asked that an interagency working group of staff from MCPS, M-NCPPC, the County Executive and the County Council review the Annual Growth Policy's school test. The working group prepared a report which addressed a number of issues, including definitions of "capacity," the appropriateness of the 110 percent test, the appropriateness of considering the capacity in adjacent clusters, the time horizon used in the AGP test, exemptions to the school test, and what is considered de minimis development for schools.

Definitions of Capacity

There were two issues related to the definition of capacity for the AGP school test. The first related to whether the Council should "rely on the strict arithmetic calculation of school capacity in the AGP or allow for reasonable legislative judgment based on other factors?" A question was whether the Council could consider a cluster to be adequate if it believed that additional reasonable capital or non-capital measures could be taken to address deficits. The second issue related to the Board of Education's definition of "program capacity." Shifts in programs from one school to another as well as changes in program assumptions may have significant effects on the "program capacity" of a facility without any change to the square footage of the facility.

The Working Group noted that it appeared that the Council already has the flexibility to consider "reasonable capital or non-capital actions" that could be implemented to offset an identified capacity shortfall. They also pointed out the importance that the BOE places in using its measure of program capacity because alternative methods would

Table 1a

Effect of Current AGP Test — Elementary Schools

Enrollment and Capacity					AGP Test			
Cluster Area		Projected Sept. 2001 Enrollment	100% Pgm. Capacity with MCPS FY98-03 CIP	Capacity Remaining @ 100%	110% Pgm. Capacity with MCPS FY98-03 CIP	AGP Test 1: Students Above or Below 110 % Cap.	AGP Test 2: Space in Adjacent Cluster(s)?	AGP Test Result - Capacity is:
B- CC		2,776	3,021	245	3,323	547		Adequate
Blair		5,137	4,955	(182)	5,451	314		Adequate
Churchill		2,293	2,449	156	2,694	401		Adequate
Damascus		2,847	3,185	338	3,504	657		Adequate
Einstein		2,765	3,088	323	3,397	632		Adequate
Gaithersburg		3,903	4,076	173	4,484	581		Adequate
Walter Johnson		2,422	2,652	230	2,917	495		Adequate
Kennedy		2,589	2,700	111	2,970	381		Adequate
Magruder		3,203	3,480	277	3,828	625		Adequate
R. Montgomery		2,007	2,413	406	2,654	647		Adequate
Paint Branch		3,421	3,763	342	4,139	718		Adequate
Poolesville		748	863	115	949	201		Adequate
Quince Orchard		3,473	3,899	426	4,289	816		Adequate
Rockville		2,335	2,565	230	2,822	487		Adequate
Seneca Valley		5,166	5,129	(37)	5,642	476		Adequate
Sherwood		3,203	3,358	155	3,694	491		Adequate
Springbrook		3,713	4,131	418	4,544	831		Adequate
Watkins Mill		3,067	3,112	45	3,423	356		Adequate
Wheaton		2,692	2,697	5	2,967	275		Adequate
Whitman		1,870	2,106	236	2,317	447		Adequate
Wootton		2,780	3,101	321	3,411	631		Adequate
Total		62,410	66,743	4,333	73,417	11,007		

Enrollment projections by Montgomery County Public Schools, October 1996
Cluster Capacity based on MCPS Requested FY98-03 CIP.

Table 1b

Effect of Proposed AGP Test Using 100% Utilization — Elementary Schools

Enrollment and Capacity

Cluster Area		Projected Sept. 2001 Enrollment	100% Pgm. Capacity with MCPS FY98-03 CIP	Capacity Remaining @ 100%
B- CC		2,776	3,021	245
Blair		5,137	4,955	(182)
Churchill		2,293	2,449	156
Damascus		2,847	3,185	338
Einstein		2,765	3,088	323
Gaithersburg		3,903	4,076	173
Walter Johnson		2,422	2,652	230
Kennedy		2,589	2,700	111
Magruder		3,203	3,480	277
R. Montgomery		2,007	2,413	406
Paint Branch		3,421	3,763	342
Poolesville		748	863	115
Quince Orchard		3,473	3,899	426
Rockville		2,335	2,565	230
Seneca Valley		5,166	5,129	(37)
Sherwood		3,203	3,358	155
Springbrook		3,713	4,131	418
Watkins Mill		3,067	3,112	45
Wheaton		2,692	2,697	5
Whitman		1,870	2,106	236
Wootton		2,780	3,101	321
Total		62,410	66,743	4,333

Enrollment projections by Montgomery County Public Schools, October 1996
Cluster Capacity based on MCPS Requested FY98-03 CIP.

AGP Test

100% Pgm. Capacity with MCPS FY98-03 CIP	AGP Test 1: Students Above or Below 100 % Cap.	AGP Test 2: Space in Adjacent Cluster(s)?	AGP Test Result - Capacity is:
3,021	245		Adequate
4,955	(182)	Einstein 323	Adequate
2,449	156		Adequate
3,185	338		Adequate
3,088	323		Adequate
4,076	173		Adequate
2,652	230		Adequate
2,700	111		Adequate
3,480	277		Adequate
2,413	406		Adequate
3,763	342		Adequate
863	115		Adequate
3,899	426		Adequate
2,565	230		Adequate
5,129	(37)	Quince Orchard 426	Adequate
3,358	155		Adequate
4,131	418		Adequate
3,112	45		Adequate
2,697	5		Adequate
2,106	236		Adequate
3,101	321		Adequate
66,743	4,333		

Effect of Current AGP Test — Middle Schools

Enrollment and Capacity: Cluster Area		Projected Sept. 2001 Enrollment	100% Pgm. Capacity with MCPS FY98-03 CIP	Capacity Remaining @ 100%	AGP Test: 110% Pgm. Capacity with MCPS FY98-03 CIP	AGP Test 1: Students Above or Below 110 % Cap.	AGP Test 2: Space in Adjacent Cluster(s)?	AGP Test Result - Capacity is:
B- CC		973	950	(23)	1,045	72		Adequate
Blair		2,716	2,602	(114)	2,862	146		Adequate
Churchill		1,470	1,469	(1)	1,616	146		Adequate
Damascus		1,428	1,401	(27)	1,541	113		Adequate
Einstein		1,223	1,175	(48)	1,293	70		Adequate
Gaithersburg		1,648	2,143	495	2,357	709		Adequate
Walter Johnson		1,305	1,556	251	1,712	407		Adequate
Kennedy		1,414	1,587	173	1,746	332		Adequate
Magruder		1,653	1,678	25	1,846	193		Adequate
R. Montgomery		933	1,031	98	1,134	201		Adequate
Paint Branch		1,767	1,701	(66)	1,871	104		Adequate
Poolesville		427	450	23	495	68		Adequate
Quince Orchard		1,854	1,821	(33)	2,003	149		Adequate
Rockville		1,038	942	(96)	1,036	(2)	Richard Montgomery 201	Adequate
Seneca Valley		2,163	2,249	86	2,474	311		Adequate
Sherwood		1,548	1,839	291	2,023	475		Adequate
Springbrook		1,874	1,904	30	2,094	220		Adequate
Watkins Mill		1,616	1,670	54	1,837	221		Adequate
Wheaton		1,171	1,055	(116)	1,161	(11)		Adequate
Whitman		1,126	1,135	9	1,249	123		Adequate
Wootton		1,339	1,287	(52)	1,416	77		Adequate
Total		30,686	31,645	959	34,810	4,124		

Enrollment projections by Montgomery County Public Schools, October 1996
Cluster Capacity based on MCPS Requested FY98-03 CIP.

Table 2b

Effect of Proposed AGP Test Using 100% Utilization — Middle Schools

Enrollment and Capacity

Cluster Area		Projected Sept. 2001 Enrollment	100% Pgm. Capacity with MCPS FY98-03 CIP	Capacity Remaining @ 100%
B- CC		973	950	(23)
Blair		2,716	2,602	(114)
Churchill		1,470	1,469	(1)
Damascus		1,428	1,401	(27)
Einstein		1,223	1,175	(48)
Gaithersburg		1,648	2,143	495
Walter Johnson		1,305	1,556	251
Kennedy		1,414	1,587	173
Magruder		1,653	1,678	25
R. Montgomery		933	1,031	98
Paint Branch		1,767	1,701	(66)
Poolesville		427	450	23
Quince Orchard		1,854	1,821	(33)
Rockville		1,038	942	(96)
Seneca Valley		2,163	2,249	86
Sherwood		1,548	1,839	291
Springbrook		1,874	1,904	30
Watkins Mill		1,616	1,670	54
Wheaton		1,171	1,055	(116)
Whitman		1,126	1,135	9
Wootton		1,339	1,287	(52)
Total		30,686	31,645	959

Enrollment projections by Montgomery County Public Schools, October 1996
Cluster Capacity based on MCPS Requested FY98-03 CIP.

AGP Test

100% Pgm. Capacity with MCPS FY98-03 CIP	AGP Test 1: Students Above or Below 100 % Cap.	AGP Test 2: Space in Adjacent Cluster(s)?	AGP Test Result - Capacity is:
950	(23)	Walter Johnson 251	Adequate
2,602	(114)	Kennedy 173	Adequate
1,469	(1)	Whitman 9	Adequate
1,401	(27)	Gaithersburg 495	Adequate
1,175	(48)	Kennedy 173	Adequate
2,143	495		Adequate
1,556	251		Adequate
1,587	173		Adequate
1,678	25		Adequate
1,031	98		Adequate
1,701	(66)	Sherwood 291	Adequate
450	23		Adequate
1,821	(33)	Seneca Valley 86	Adequate
942	(96)	Richard Montgomery 98	Adequate
2,249	86		Adequate
1,839	291		Adequate
1,904	30		Adequate
1,670	54		Adequate
1,055	(116)	Walter Johnson 251	Adequate
1,135	9		Adequate
1,287	(52)	Gaithersburg 495	Adequate
31,645	959		

Table 3a

Effect of Current AGP Test — High Schools

Enrollment and Capacity

Cluster Area		Projected Sept. 2001 Enrollment	100% Pgm. Capacity with MCPS FY98-03 CIP	Capacity Remaining @ 100%
B- CC		1,457	1,517	60
Blair		2,952	2,800	(152)
Churchill		1,786	1,841	55
Damascus		1,855	1,582	(273)
Einstein		1,398	1,550	152
Gaithersburg		1,962	1,901	(61)
Walter Johnson		1,768	1,480	(288)
Kennedy		1,565	1,672	107
Magruder		1,968	2,000	32
R. Montgomery		1,640	1,540	(100)
Paint Branch		2,108	2,163	55
Poolesville		688	878	190
Quince Orchard		2,205	2,432	227
Rockville		1,154	1,262	108
Seneca Valley		2,335	2,464	129
Sherwood		2,023	2,118	95
Springbrook		2,380	2,439	59
Watkins Mill		1,993	1,791	(202)
Wheaton		1,397	1,192	(205)
Whitman		1,894	1,803	(91)
Wootton		1,875	1,805	(70)
Total		38,403	38,230	(173)

Enrollment projections by Montgomery County Public Schools, October 1996
Cluster Capacity based on MCPS Requested FY98-03 CIP.

AGP Test

110% Pgm. Capacity with MCPS FY98-03 CIP	AGP Test 1: Students Above or Below 110 % Cap.	AGP Test 2: Space in Adjacent Cluster(s)?	AGP Test Result - Capacity is:
1,669	212		Adequate
3,080	128		Adequate
2,025	239		Adequate
1,740	(115)	Gaithersburg 129	Adequate
1,705	307		Adequate
2,091	129		Adequate
1,628	(140)	Bethesda Chevy Chase 212	Adequate
1,839	274		Adequate
2,200	232		Adequate
1,694	54		Adequate
2,379	271		Adequate
966	278		Adequate
2,675	470		Adequate
1,388	234		Adequate
2,710	375		Adequate
2,330	307		Adequate
2,683	303		Adequate
1,970	(23)	Seneca Valley 56	Adequate
1,311	(86)	Kennedy 274	Adequate
1,983	89		Adequate
1,986	111		Adequate
42,053	3,650		

Table 3b

Effect of Proposed AGP Test Using 100% Utilization — High Schools

Enrollment and Capacity

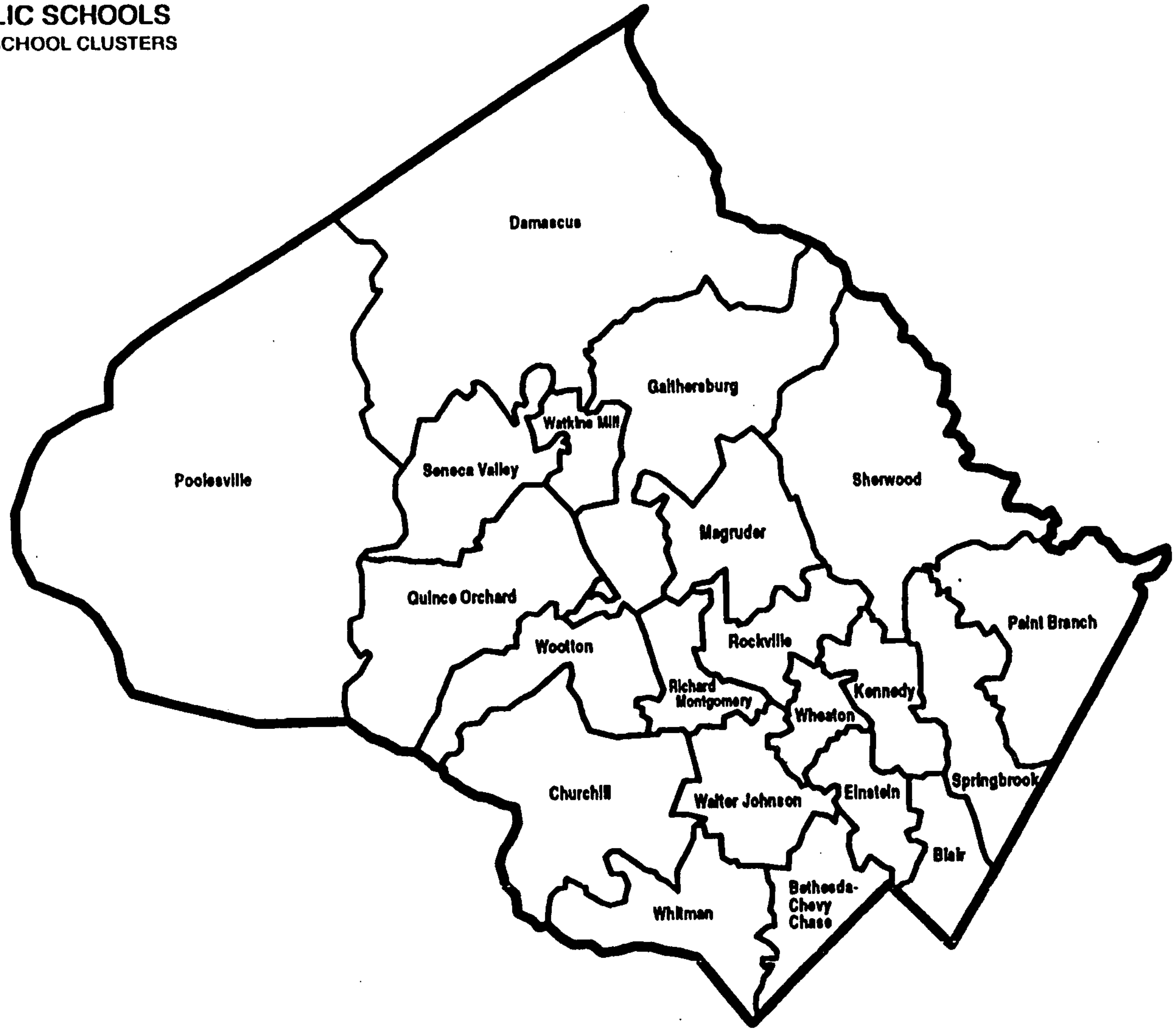
Cluster Area		Projected Sept. 2001 Enrollment	100% Pgm. Capacity with MCPS FY98-03 CIP	Capacity Remaining @ 100%
B- CC		1,457	1,517	60
Blair		2,952	2,800	(152)
Churchill		1,786	1,841	55
Damascus		**1,855**	**1,582**	**(273)**
Einstein		1,398	1,550	152
Gaithersburg		1,962	1,901	(61)
Walter Johnson		**1,768**	**1,480**	**(288)**
Kennedy		1,565	1,672	107
Magruder		1,968	2,000	32
R. Montgomery		1,640	1,540	(100)
Paint Branch		2,108	2,163	55
Poolesville		688	878	190
Quince Orchard		2,205	2,432	227
Rockville		1,154	1,262	108
Seneca Valley		2,335	2,464	129
Sherwood		2,023	2,118	95
Springbrook		2,380	2,439	59
Watkins Mill		1,993	1,791	(202)
Wheaton		**1,397**	**1,192**	**(205)**
Whitman		1,894	1,803	(91)
Wootton		**1,875**	**1,805**	**(70)**
Total		38,403	38,230	(173)

Enrollment projections by Montgomery County Public Schools, October 1996
Cluster Capacity based on MCPS Requested FY98-03 CIP.

AGP Test

100% Pgm. Capacity with MCPS FY98-03 CIP	AGP Test 1: Students Above or Below 100 % Cap.	AGP Test 2: Space in Adjacent Cluster(s)?	AGP Test Result - Capacity is:
1,517	60		Adequate
2,800	(152)	Einstein 152	Adequate
1,841	55		Adequate
1,582	**(273)**		**Inadequate**
1,550	152		Adequate
1,901	(61)	Sherwood 95	Adequate
1,480	**(288)**		**Inadequate**
1,672	107		Adequate
2,000	32		Adequate
1,540	(100)	Rockville 108	Adequate
2,163	55		Adequate
878	190		Adequate
2,432	227		Adequate
1,262	108		Adequate
2,464	129		Adequate
2,118	95		Adequate
2,439	59		Adequate
1,791	(202)	Quince Orchard 227	Adequate
1,192	**(205)**		**Inadequate**
1,803	(91)	B-CC 60 + Churchill 55	Adequate
1,805	**(70)**		**Inadequate**
38,230	(173)		

MONTGOMERY COUNTY PUBLIC SCHOOLS
HIGH SCHOOL CLUSTERS



Source: Montgomery County Public Schools

ignore the actual operations of MCPS. The Working Group noted that while the Council may have the ability to use a different definition of capacity, it would place itself in a difficult position if it were to do so. It also noted that the Council had never used a different definition than that applied by the BOE.

Percentage of Allowance Above Capacity in AGP Test

The Working Group reviewed three maximum levels of program capacity for use in the AGP school test: 100 percent, 110 percent, and 120 percent.

Current Method: 110 Percent of Program Capacity: The current methodology uses 110 percent of Council-funded school capacity. This 110 percent is used to allow for the flexibility that exists in school facilities through the use of boundary changes and relocatable classrooms. It also accounts for some of the program changes that BOE could possibly make in order to accommodate marginal population increases.

120 Percent of Program Capacity: The Working Group noted that in neighboring jurisdictions, the methodology for determining school capacity is similar to Montgomery County's, but that at least one jurisdiction, Howard County, uses 120 percent of program capacity. The Working Group suggested that BOE-defined program capacity provides for considerable flexibility and that a less-restrictive AGP test would reflect that flexibility better. However, 120 percent of capacity would be significantly greater than the current-funded education program could accommodate.

100 Percent of Capacity: Using 100 percent of capacity would tie the AGP test more closely with actual capacity used by BOE, the Working Group said, but does not reflect the flexibility measures that may be available such as boundary changes.

Capacity in Adjacent Clusters

If a cluster is over 110 percent of capacity, the current AGP school test looks to adjacent clusters to determine if those clusters are also above 110 percent of capacity. For the purposes of the AGP test, a cluster may "use" capacity in adjacent clusters up to 110 percent of the adjacent cluster's capacity. Using adjacent cluster capacity gives the AGP test considerable flexibility. This method assumes that cluster boundaries are reasonably fluid and reflects a belief that non-capital solutions such as boundary changes may be a legitimate alternative to constructing new facilities. The Working Group recommended that use of adjacent cluster capacity continue. The Group noted that some jurisdictions do not use adjacent cluster capacity, but this would ignore what may be available capacity in relatively close proximity.

In 1973, there was a court case related to the issue of using capacity from adjacent clusters. The following is a quote from Planning and Control of Land Development: Cases and Materials, Mandelker and Cunningham, 3rd Edition.

In M-NCPPC v. Rosenberg, 307 A.2d 704 (1973), the Commission refused to approve the plaintiff's subdivision because it claimed its residential development would overload the neighborhood school. The court reversed on the basis of testimony that adjacent schools had excess capacity, and that revision of adjacent service area boundaries would remedy the over-capacity problem at the neighborhood school. There was

testimony that school service areas were changed frequently. The ordinance provided that "adequate" schools had to be available within a "reasonable" distance.

An option not addressed by the working group was using less than 110 percent of capacity of adjacent clusters. It may be argued that if a cluster is above 110 percent of capacity, the AGP test should only use up to 100 percent of the capacity of adjacent clusters. This would be on the theory that deficits in one area shouldn't push another cluster to over-capacity.

Time Horizon

The current approach compares enrollment and capacity four years into the future on the rationale that it generally takes four years for approved development to be built and occupied. The four year time frame is also consistent with the AGP test for roads and allows for time to address capacity shortages through the programming of capital improvements.

Using a longer time frame would give the County greater latitude in accepting temporary over-capacity problems that may be resolved through demographic changes (such as a decline in school enrollments) and gives the County a longer period of time to program needed facilities. On the other hand, a longer time horizon would mean the AGP test would allow (but not necessarily cause) over-capacity conditions to exist for a longer period of time. In addition, there is less certainty that capital projects in the later years of the CIP will be built.

A shorter time frame would be less restrictive if school enrollments are forecast to increase; more restrictive if school enrollments are forecast to decrease. A shorter time frame would not allow the County adequate time to respond to capacity problems by programming new facilities.

Exemptions

Under certain conditions, the transportation test permits subdivisions with a defined component of affordable housing to be approved in moratorium areas. There is no similar provision in the schools test. Other exemptions could include a restriction on the number of years a cluster could be in moratorium for schools; Howard County has used a four-year rule. The rationale is that four years is enough time for the County to program a solution. If several clusters of the County are affected simultaneously, however, four years may not be a realistic time horizon.

De Minimis Rule

The AGP's de minimis rule for schools has never been used and it therefore may be unfamiliar to many. De minimis development is a subdivision that, because of its small size, is permitted to be approved in moratorium areas. For schools, it is based upon student generation rates of various types of development. The current rule defines de minimis development for schools as fewer than 10 single-family detached housing units, fewer than 17 townhouses, and fewer than 40 multi-family units. These are equivalent from a student generate perspective.

The Working Group did not recommend a change to the de minimis rule for schools.

The 1993 Proposal for Ceiling Flexibility

One of the responses to the report of the 1992 Working Group was a request by the County Council Education Committee that staff develop recommendations for a school "ceiling flexibility" provision for consideration for the FY 94 Annual Growth Policy. The rationale for ceiling flexibility is that in moratorium areas, a developer can contribute an equivalent amount of public facilities as his subdivision will use, and will therefore not make the existing facility deficits worse.

Strictly speaking, "ceiling flexibility" may be a bit of a misnomer when it comes to the schools test, since the County does not establish staging ceilings for schools. Transportation staging ceilings are the maximum amount of development that can be approved while maintaining transportation network adequacy. The amount of approved development is compared to the transportation staging ceilings on an on-going basis. However, the schools test occurs once per year, and if a cluster is found to be adequate during that annual review, there is no limit on the amount of development that can be approved during the next fiscal year.

The Working Group did not reach a consensus on a ceiling flexibility provision, but Council staff prepared a proposal which, along with the issues it raised, is instructive. The proposal is shown in the box; the issues follow in the text.

The 1993 Council Staff Proposal for Ceiling Flexibility

If an area is placed in a housing moratorium as a result of inadequate public schools, a developer would have the opportunity to pass the test if, as a condition of subdivision approval, he or she agrees to pay the County for the cost of classroom spaces that will be needed as a result of the development. The number of classrooms needed would be determined by M-NCPPC staff after consultation with MCPS staff. For developments coming under this provision in FY 94, the number of classrooms should be based on the number of additional students forecast to be generated by the development in September 1997, divided by 110 percent of program capacity.

The cost of the classroom(s) would be stated in the AGP and updated every year by MCPS staff. The cost would be based on strictly the classroom(s) addition, not core expansion. For the FY 94 AGP, the costs would be:

Elementary School:	$110,000/classroom
Middle School:	$120,000/classroom
High School:	$130,000/classroom

The timing of the payment would be made prior to both the notice-to-proceed on the classroom(s)'s construction, and the issuance of any building permits.

The payment must be earmarked for additional classrooms either in the development's cluster or in an adjacent cluster. In its subsequent capital improvements program request, the Board of Education would identify where the additional classrooms would be constructed.

What Are Appropriate Increments? This concerns how to measure public school capacity. Are the appropriate units of measure seats, classrooms, or entire schools? A single development may create demand for a few additional seats, more than one classroom, or possibly a substantial fraction of a whole school. In a developer is permitted to pay for only the number of additional seats his subdivision will demand, the revenue may be insufficient to pay for an actual improvement since one cannot build part of a classroom. If the unit selected is classrooms, there could still be a problem if a school's core facilities would also have to be increased to handle the additional classrooms. If the unit is entire schools, that may be the safest from a school capacity perspective, but it would mean that ceiling flexibility would be limited to a few very large subdivisions.

In the transportation test, small, incremental solutions are permitted as part of ceiling flexibility as long as the improvements actually function when completed. For example, the County does not permit a developer to build half of a turning lane because his development will only use one-half of the capacity created by a full turning lane.

The selection of increments highlights a basic point of contention in ceiling flexibility: the trade-off between making sure the process can be used by as many developers as possible and making sure that the result is not several partially-funded classrooms. A smaller unit of measure will allow more developers access to ceiling flexibility; larger units of measure will help assure that developer contributions can be converted into usable capacity.

Core Facilities: This is related to the increment issue, because it cannot be assumed that additional classrooms can be added to every school. Some will also require expansion of core facilities. Should a developer have to pay for core facilities if his subdivision won't create an additional need for them? Should a developer not pay for core facilities if his development will? Could ceiling flexibility charge developers for the actual cost of the demand they create, or does it have to charge developers the average cost of the demand their subdivision would create?

Case-By-Case Solutions: Another alternative would be for individual developers and MCPS to develop agreed-upon developer-funded solutions for providing the needed capacity on a case-by-case basis. This would be similar to the way developers typically work with the Department of Public Works and Transportation to develop mutually acceptable developer-funded transportation projects to meet ceiling flexibility requirements.

Pre-Identified Solutions by Cluster: Because school facility planning looks beyond four years, in some clusters a solution to capacity deficits has already been identified. This information could be used to determine an appropriate developer contribution through ceiling flexibility. In a cluster where the pre-identified solution calls for additional classrooms only, the developer would be assessed a fee based upon average classroom cost only. In an area where the pre-identified solution includes core costs, the developer would be assessed a fee that includes average core costs. It may be necessary to stipulate that a solution will be identified whenever a cluster is put in moratorium so that a developer contribution can be calculated.

School Planning: A ceiling flexibility provision will add another factor to be considered when the school system is looking at what capital or non-capital capacity adjustments should be made. A strict moratorium would provide MCPS with a greater level of certainty; ceiling flexibility adds not only uncertainty as to where new subdivisions will be approved, but also requires additional planning for the expenditure of ceiling flexibility revenues.

Pay-and-Go Versus Waiting for Capacity: The AGP's ceiling flexibility provisions for transportation generally require that the developer's transportation improvement be under construction before construction on the development project can begin. The exceptions are the Alternative Review Procedures, which allow developers to "pay and go." The difference is that the timing of public facilities is no longer strictly tied to the pace of development. The improvements needed to support that development may occur well after the new housing units are occupied. An alternative would be to continue the moratorium until the County had identified enough developers willing to contribute to school capacity so that the County was able to program the school improvement within the first four years of the capital budget. This would greatly increase the public's assurance that school facilities would remain adequate, but it would also greatly limit the utility of ceiling flexibility by developers.

Modified Proposal

For this policy element, staff from Montgomery County Public Schools, the County Executive, County Council, and the Planning Board met to review past proposals and to evaluate other options. Incorporated into the staffs' discussions of ceiling flexibility was the Board of Education's proposal to reduce the AGP school test from 110 percent to 100 percent.

What emerged was less a consensus solution than a modified approach which seeks to address some of the concerns about the 1993 proposal as well as the BOE's concern about the 110 percent capacity test. Perhaps this approach is best viewed as a "what if" scenario that allows the component issues to be raised and debated.

To a great degree, the "modified approach" uses ceiling flexibility to create a compromise between the BOE's proposal and the current approach. The difference is that ceiling flexibility would be permitted in clusters that exceed the 100 percent test but not the 110 percent test. No ceiling flexibility would be permitted in areas that fail the 110 percent test, just as today. The rationale for this approach is that a tightening of the test may be appropriate if it brings with it additional flexibility.

This modified approach raises many of the same issues as previous proposals. Other, different, issues emerge as well.

Efficacy of Moratoria in Addressing Current Capacity Deficits: As noted, current capacity difficulties exist at the high school level, more a consequence of the aging of a population already in the schools than of new development. Stopping development now would not significantly assist in addressing these current concerns. An opposing view might be that current concerns are the result of an AGP test that is too lenient and a tightening of the test is needed so that capacity difficulties are avoided in the future.

1995 "Modified Approach"

This approach is basically a "pay-and-go" system that uses 100 percent of capacity as the threshold for requiring contributions by developers. It calculates a developer's contribution on a per-student basis using the average cost of school divided by the student capacity of the school. Ceiling flexibility would not be permitted in clusters that would be in moratorium under the AGP's current school test.

More specifically, this approach envisions two tests: a test for a partial moratorium (that is, development approvals could continued but would be conditioned upon developer contributions to school facilities), and a test to decide whether to impose a full moratorium.

The test for a partial moratorium would be the same as the current test, except using 100 percent of program capacity. When looking to adjacent capacity, the 100 percent of capacity test would also be used. This is the same test that the BOE is proposing. The difference is that ceiling flexibility would be permitted. Clusters that would be subject to a partial moratorium if this took effect today would be Damascus, Walter Johnson, Wheaton, and Wooton.

A developer's contribution to meet his ceiling flexibility obligations would be calculated by multiplying the following factors:

1. The number of students his development could be expected to generate using standard student generation rates for each type of housing unit.
2. The average cost per student of a new school, using 100 percent of capacity. For example, if the average cost of a new elementary school is $6.5 million and it holds, at 100 percent of capacity, 640 students, then the average cost per student is about $10,000. This number includes core facilities.

For a single-family detached home, which has a student generation rate of 0.5, this would result in a payment of $5,000. Payment would be made at building permit.

The test for full moratorium would be the same as it is now: 110 percent of capacity and using 110 percent of the capacity of adjacent clusters.

Revenues from ceiling flexibility would be earmarked for capacity-generating projects only within the same cluster as the development or an adjacent cluster. To the greatest extent possible, revenues from developer payments would be immediately assigned to a specific improvement in the capital budget.

If a school improvement partially funded with developer contributions were to enter the first four years of the CIP before the developer applied for building permits, he would not be able to seek re-approval of his subdivision using that school capacity (and therefore avoiding the fee). This would be prohibited because the school improvement is dependent upon his paying the fee.

Time Limit on Moratoria: The lack of availability of ceiling flexibility when clusters fail the 110 percent test could be moderated by a time limit on the number of years a cluster could be in "total moratorium," such as four years. After the time limit is over, either development could proceed as in other areas or ceiling flexibility could become available.

Penalty or Contribution? If the revenues from a "pay-and-go" approach are not easily utilized to make capacity improvements, then a question arises as to whether the developer is actually making a contribution to school capacity or is merely paying a penalty. Obviously the latter case results in both students and home builders being worse off than before. This is a serious question because it is impossible to estimate revenues from ceiling flexibility and total revenues will be as important as the size of an individual developer's contribution in determining if additional facilities can be programmed. For ceiling flexibility to be successful, more than a handful of housing units will have to be constructed using it. The popularity of the provision may be limited: parts of the Damascus and Wooton clusters are in moratorium because of transportation facilities; although the Alternative Review Procedure is available there, the resulting combined payment might be in the neighborhood of $15,000.

Contributions to a Specific Solution: For the four clusters that would be affected if the modified approach were applied today, three clusters have specific capacity solutions identified in the capital budget. Possibly ceiling flexibility could be better justified if developer contributions were earmarked to those solutions. A solution has been identified for the fourth cluster, Damascus, but it is not yet in the CIP.

Timing of Development and Countability of Developer-Funded Solutions: Pay-and-go approaches raise the issue of the timing of construction of subdivisions approved under ceiling flexibility and the provision of school facilities. Currently a school is countable if it is in the first four years of the CIP. If the County is depending on developer contributions at building permit to help fund a programmed school facility, and the County moves that facility into the first four years of the CIP on the basis of those contributions, the County will have to specify that the subdivisions approved under ceiling flexibility cannot seek re-approval using " free" school capacity and thereby avoid paying the school fee.

Spending on Non-Capacity Improvements: If the revenues from school ceiling flexibility are small and scattered, there will not be enough money in any one cluster to make an effective capacity improvement. Can ceiling flexibility revenues be spent on non-capacity improvements that would improve the quality of the school environment? In general it seems inappropriate to spend revenues exacted because of school capacity constraints on non-capacity improvements, even though, in theory, other improvements could help mitigate capacity problems.

Ceiling Flexibility for A Private School? If a primarily-residential development includes a private school, can the subdivision receive credit for adding school capacity? It is highly likely this will never occur, but perhaps credit could be given but only to the extent that the private school can be expected to draw students from County schools in the same or adjacent cluster as the development. This would be a small percentage but could be estimated by MCPS staff.

Park and Planning Staff Comments

The fact that this issue has been debated on a more or less ongoing basis over a number of years reflects both the high priority this County places on its public schools as well as the seriousness with which it views placing additional constraints on the provision of new housing. The County has indeed committed significant resources to the construction of new public school facilities, certainly with the main concern being County students, but also mindful of the consequences of imposing development moratoria.

Park and Planning staff are not prepared to fully enter the debate about what constitutes "adequate" public schools. The County Council, the Board of Education, MCPS staff, and many parents are better-versed in the impact of boundary changes, program shifts, and over-capacity schools on education. But staff has considerable experience in the consequences of moratorium and in applying the various forms of ceiling flexibility, so staff's comments are primarily directed to these areas.

It has been pointed out that application of the 100 percent test would place four clusters in subdivision moratorium because of inadequate high school capacity, but that subdivision moratoria would not directly address the high school capacity concern because most future high school students are already in the system. Park and Planning staff find this argument persuasive for the immediate future, but this is not the only appropriate way of evaluating changes to the school test. Because school demand reductions from the changes to the AGP tests for schools under discussion will be incremental and over the long term, perhaps a longer-range view is warranted.

The County's experience with ceiling flexibility for transportation has taught us a few lessons, most notably that such provisions add considerable complexity and nearly always have unanticipated results. Simplicity is answering the question of "can a subdivision be approved in this cluster?" with a yes or a no. When the answer is "yes, but only under certain conditions," then the rules must anticipate a variety of situations from both the school and the developer's perspective and provide appropriate guidelines for those situations to be handled. Staff is not suggesting that ceiling flexibility is not worthwhile because it will be complex, only that complexity is one of its characteristics.

The experience with ceiling flexibility for transportation facilities is instructive, but even in this context, there are differences between school facilities and road facilities. There are also similarities.

Road facilities needed to support a subdivision are nearly always located near the subdivision, or between the subdivision and other development centers. This narrows the range of possibilities for appropriate transportation improvements to serve the subdivision. For that reason, transportation policy areas are smaller than school clusters and the AGP has the additional local area transportation review. School capacity is measured on both a cluster basis as well as on an adjacent cluster basis; the geographic area covered by a cluster and all clusters adjacent to it is significantly larger than a transportation policy area. The larger cluster-plus-all-adjacent-cluster area increases both the pool of possible solutions and the pool of contributing developers.

Schools and transportation facilities are alike, however, in that in some areas an incremental solution "works" while in other areas, all of the incremental steps have been taken and a more comprehensive solution is needed. In one policy area a developer may need to add a lane to an existing roadway; in another, development is awaiting an entire interchange. In the same way, in one cluster it is possible to add new classrooms to an existing school without enlarging core capacity while in another cluster additional demand will require an entire new school.

For most of the AGP's history, the County has not found it "unfair" that a developer in an area with no incremental solutions available has a different status than a developer with a subdivision that can be supported by an incremental solution. This is a view of ceiling flexibility that places priority on public facilities adequacy first and developer accommodation second because of its insistence that workable solutions be in place or programmed before development begins. The alternative point of view is that ceiling flexibility should be available to developers on a more-or-less equal basis. Rather than connect a particular development with a specific impact, the idea is that participating developers will be assessed according to the average impact a development of that type would have. This typically permits a developer to move forward before the facility needed to support the development is programmed or even identified and is the underpinning of most "pay-and-go" approaches.

The options for ceiling flexibility fall at various points along that spectrum: strict adherence to public facilities adequacy on the one end, and ease of developer access on the other. From one end of the spectrum to the other:

Full moratorium: A moratorium without ceiling flexibility is the strictest approach a local government can take toward maintaining public facilities adequacy because it means that all capacity deficits must be addressed before any new development can occur. It suggests that the interests of existing residents (other than residents owning developable land) are paramount. The cost of a full moratorium can be high: it places pressure on the government to act quickly to add needed facilities while denying it contributions that developers may be willing to make.

Developer Participation: These are ceiling flexibility provisions that place the next highest priority on maintaining public facilities adequacy, because its standard is that new development can occur in areas with capacity deficits "if they don't make the situation worse." Examples for the transportation test are Full-Cost Developer Participation, "road clubs," and development districts. These mechanisms assure that there will be no further decline in public facility adequacy, but there can be less pressure to provide the facilities needed to return to full adequacy. These mechanisms also have a relatively high barrier to access by developers; if they are not large enough on their own to afford the needed facilities, they must convince other developers to join with them. This can be difficult since it is somewhat counter-productive for a developer to encourage others to bring competitive product on line at the same time.

Partial-Cost Developer Participation: This mechanism refers to a process where the local government identifies a needed public facility and agrees to add it to the CIP on the stipulation that a certain level of developer funding can be arranged. This mechanism has the same assurance of public facility adequacy as Full-Cost Developer Participation,

because the public facility is not "counted" until it is within the first four years of the CIP. A difference is that developers (at least in the areas the facility will benefit) have greater access to participation. A smaller developer can contribute on the basis of his "share" of the new facility and it is the County, rather than a developer, that is in the position of encouraging other developers to participate. However, the mechanism may depend on a critical mass of development to work, which can limit its applicability.

"Pay-and Go" for Pre-Identified Solutions Only: This would allow developers to move forward immediately if they contribute to a pre-identified capacity solution. Presumably the developer's contribution is based upon his pro-rata cost of the capacity his development will need. This is "partial-cost developer participation" without the requirement that the facility be in the first four years of the CIP. Adherence to public facilities adequacy is lessened because development can proceed ahead of the programming of the facility. But having a pre-identified solution is a stronger safeguard of public facilities adequacy than having none; it assures that development won't proceed in areas where an acceptable remedy doesn't exist.

Pure Pay and Go: This assesses a developer's contribution on the basis of average public facilities usage of his type of development; i.e., the average cost of a lane-mile of roadway or the average cost of one seat in an elementary school. There are other methods of setting average fees, such as calculating the cost of all new roads or schools needed to serve all remaining development and dividing by the amount of remaining development. Typically all developers in any moratorium area are assessed the same fee for the same type of facility. One of the main concerns with a "pay-and-go" approach to ceiling flexibility is that often there is not enough development approved in any one place to pay for the improvements needed at that location. If money collected Countywide is spent in a few locations, there is an inequality issue. In addition, there is a danger that there are no acceptable solutions to the impacts of new development. Alternatively, it can be argued that even a small amount of developer contributions in an area is better than the County having to pay for the entire improvement without those contributions. Another argument is that the impact of new development is incremental and it is appropriate for new development's contribution to be incremental as well. This suggests that the role of the County is to follow development with needed facilities, rather than restrict development to areas where facilities are adequate.

No Test: This gives the least weight to public facilities adequacy by suggesting that new development should not contribute any more or less than existing development to public facilities; that is, property and other taxes. Although new development (particularly residential) does not pay for itself over the near term, over a much longer term it may come close. The problem of course is that new residents are typically unwilling to wait twenty years for roads, schools, and other facilities. In the meantime, it is extremely difficult for localities to provide adequate facilities for new residents while maintaining adequacy for existing ones.

Park and Planning Staff Recommendations

Of the above approaches, Park and Planning Department staff feel that having a pre-identified solution to capacity deficits should be a minimum requirement to allowing

ceiling flexibility for schools. Staff tends to want to err on the side of caution when it comes to facility adequacy, but does admit that allowing developers to proceed only when the "solution" enters the first four years of the CIP does not provide much in the way of ceiling flexibility. A "pay and go" for pre-identified solutions only may be more appropriate for school ceiling flexibility than for transportation ceiling flexibility because the wider geographic area covered by the adjacent-cluster rule suggests than a an acceptable solution can be found.

The County can define what is meant by "pre-identified solution" to be school facilities that have undergone sufficient planning and design to be ready to enter the CIP as soon as funding is available, or may use a stricter definition.

The fee assessed developers under this form of "pay-and-go" may reflect the pro-rata cost of the pre-identified solution or average costs for school capacity of that type. Staff tends to favor the former on a policy basis but realizes it will be much more difficult to administer.

Regarding whether ceiling flexibility should be available in clusters failing the 110 percent capacity rule or only in clusters that fail a 100 percent capacity rule but do not fail the 110 percent capacity rule: staff points out an irony of the pay-and-go approach is that its success is partly dependent on having a substantial amount of development use it. It may be more helpful to get more developer contributions in the short term than to limit them because the benefits of full moratorium won't be seen in the school system for a while after it is imposed.

Staff agrees that revenues from ceiling flexibility should be spent on capacity-generating improvements only in the development's cluster or adjacent clusters. This raises for staff another issue: because clusters are relatively interdependent, perhaps developer contributions should be required, not only in the cluster failing the test, but also in adjacent clusters. This would recognize that clusters benefit when capacity is added to adjacent clusters. It would also increase the contribution base which would accelerate the completion of the needed facilities.

Staff's recommendation regarding whether the school test should be at the 100 percent of capacity level or the 110 percent of capacity level is very much tied to the decision on ceiling flexibility. If ceiling flexibility is approved and the amount of the contribution by developers is relatively affordable, staff is comfortable with a 100 percent rule. If there is no ceiling flexibility, or if the 100 percent rule rule with ceiling flexibility leads to a *de facto* moratorium because the cost to participate in ceiling flexibility is high, then staff would recommend retaining the 110 percent rule.

Finally, staff agrees that development approved under ceiling flexibility should not be able to be re-approved using existing capacity if that capacity is dependent upon that development's contributions. This will avoid the County having to hold back on programming school facilities in the first four years of the CIP until construction has started on the development.

Friendship Heights Policy Area

The Park and Planning Department recommends that the County establish a Friendship Heights Metro Station Policy Area with the same boundaries as the Friendship Heights Sector Plan Area . Staff recommends that the gross staging ceilings for the new policy area be set at 13,213 jobs and 4,502 housing units. This would result in net remaining capacities for the new policy area of 2,650 jobs and 800 housing units. It would also result in net remaining capacities for the remaining Bethesda/Chevy Chase policy area of 1,059 jobs and 5,974 housing units.

The Friendship Heights Metro Station is the first Montgomery County station as one travels on Metro's Red Line from the District of Columbia. The area contains one of two central business districts in the Bethesda/Chevy Chase Policy Area, the other being Bethesda CBD.

The Planning Board (Final) Draft of the Friendship Heights Sector was released in March, 1997. The draft sector plan recommends "concentrating new growth in the Metro-served area while preserving surrounding neighborhoods...enhancing the Town Center by adding mixed land uses on major redevelopable parcels to integrate the different parts of Friendship Heights...expanding opportunities for regional retail...providing opportunities for additional office development...[and] providing housing opportunities."

Establishment of a Friendship Heights Metro Station Policy Area will help meet these objectives.

Metro Station Policy Areas

The County establishes Metro Station Policy Areas to encourage the location of jobs and housing units in a compact area where the County has already made a substantial investment in transportation infrastructure.

Metro Station Policy Areas are compact, which is generally considered to mean that the boundaries are within walking distance of the Metro station. Not every Metro station is targeted for higher density development (Forest Glen is an example of where it is not), so not every policy area with a Metro station is recommended for Metro Station Policy Area status.

The County encourages the location of jobs and housing in Metro Station Policy Areas in several ways. When additional development capacity is created by roadway or

transit improvements, that capacity can, in some instances, be allocated to Metro Station Policy Areas rather than the larger surrounding policy area.

In addition, the County's policy of allowing greater traffic congestion in areas with greater transit service and usage means that Local Area Transportation Review standards are less stringent in Metro Station Policy Areas than anywhere else in the County. This is beneficial to development because intersection improvements are typically very expensive in areas with higher density land uses, and it can be beneficial to the County when intersection widenings would run counter to County goals of enhancing the pedestrian environment. The LATR standard in Metro Station Policy Areas is a "critical lane volume" of 1800.

In FY94, the County instituted the Alternative Review Procedure for Metro Station Policy Areas, which permits developers to proceed without making the intersection improvements that would otherwise be required under LATR. Instead, the developer agrees to make a payment to the County based upon the size and type of the project, participate in and support a transportation management organization (TMO), and make its best effort to meet mode share goals established by the Planning Board.

Current Policy Area Status

Friendship Heights is currently part of the Bethesda/Chevy Chase Policy Area, which also contains the Bethesda CBD Metro Station Policy Area. Bethesda CBD became a Metro Station Policy Area in 1993, following adoption of the Bethesda CBD Sector Plan. Bethesda/Chevy Chase is 20.17 square miles in size (third largest of policy areas) and has approximately 45,500 jobs and 31,000 housing units (exclusive of Bethesda CBD) within its borders.

The Bethesda/Chevy Chase Policy Area has never been in moratorium. The area currently (as of 3/31/97) has a pipeline of approved but not yet constructed development of 2,638 jobs and 964 housing units. The net remaining capacity in Bethesda/Chevy Chase is 3,209 jobs and 6,774 housing units. The Bethesda/Chevy Chase queue of pending approvals has 165 jobs and 244 housing units.

The Bethesda CBD Policy Area has approximately 38,500 jobs and about 5,000 housing units. The area was in moratorium for one year (FY91) for jobs. The pipeline of approved development in the Bethesda CBD consists of 2,819 jobs and 241 housing units. The area has a net remaining capacity for new approvals of 4,101 jobs and 3,200 housing units. The queue of pending development consists of 175 jobs and 0 housing units.

FY92 Proposal for a Friendship Heights Policy Area

The Montgomery County Planning Board recommended establishment of a Friendship Heights Policy Area for FY92. The Planning Board debated possible boundaries and selected the boundaries which were then being used in preliminary work on a Friendship Heights Sector Plan Amendment. These boundaries included all properties in the Friendship Heights CBD, the GEICO property, Somerset House, Saks Fifth Avenue parking lot, and the Chevy Chase parking lot.

During the deliberations on the establishment of Metro station policy areas in FY92, the County Council decided that, rather than establish all of the recommended Metro Station policy areas at once, to instead establish them as new sector plans were prepared. The County is now working on a new sector plan for Friendship Heights.

The 1997 Final Draft Friendship Heights Sector Plan

The Planning Board released their final draft of the Friendship Heights Sector Plan in March. The draft sector plan's boundaries are the same as those proposed for the Metro station policy area for FY92. Park and Planning Department staff are proposing to use the same boundaries for the Metro station policy area this time as well. This will require a change in the boundary between Traffic Zones 2 and 19 to include the Somerset condominium property in Traffic Zone 2.

Setting Staging Ceilings for Friendship Heights

Staging ceilings are the maximum amount of development that can be supported by the transportation network in a policy area. The relationship between a Metro station policy area and its surrounding, or "parent," policy area is a little different from the relationship between two large adjoining policy areas. This is because the transportation model used to set staging ceilings does not set separate staging ceilings for Metro station policy areas. The model can, however, show the effect on the transportation network of directing future growth to a specific part of a policy area, rather than allowing it to occur in several places in a policy area. Of course, the purpose of the Friendship Heights Metro Station Policy Area is precisely that: to direct growth to a specific part of the Bethesda/Chevy Chase Policy Area.

Proposed Friendship Heights Policy Area

Friendship Heights	**Jobs**	**Housing**
Proposed FY98 Ceilings	13,213	4,502
1996 Base	8,573	3,297
Pipeline (3/31/97)	2,181	405
Net Remaining Capacity	2,650	800
Remaining B/CC	**Jobs**	**Housing**
Proposed FY98 Ceilings	38,394	34,235
1996 Base	36,878	27,744
Pipeline (3/31/97)	457	517
Net Remaining Capacity	1,059	5,974
Current B/CC*	**Jobs**	**Housing**
FY98 Draft Ceilings	51,298	38,623
1996 Base	45,451	30,885
Pipeline (3/31/97)	2,638	964
FY98 Draft Net Remaining Capacity	3,209	6,774

**including Friendship Heights*

Since there are no new road or transit improvements in the Bethesda/Chevy Chase Policy Area to be counted for the first time this year, all of the staging ceiling that will be allocated to the Friendship Heights policy area will come from the surrounding Bethesda/Chevy Chase Policy Area. In past re-allocations of this kind, it has been the County's policy to re-allocate only *net remaining capacity* to new Metro station policy areas. In other words, it would not be the practice to "find" an additional 1,000 jobs in capacity for Friendship Heights by putting Bethesda/Chevy Chase 1,000 jobs into deficit.

As mentioned earlier, however, directing future growth to Metro station areas is more efficient from a transportation perspective than allowing development to occur elsewhere in a policy area. This is because workers and residents near Metro stations are more

likely to use transit to travel. Because of this effect, the County was able to allocate an additional 1,000 jobs to the Shady Grove Metro Station Policy Area when it was created without increasing congestion on the roadway network.

A second point concerns policy areas with more than one Metro station policy area. Within the same larger policy area, development located at any Metro Station policy area is equally efficient from a transportation perspective. The three North Bethesda Metro station policy areas are an example. When they were established, it was recognized that capacity could in the future be re-allocated among them to meet policy objectives or meet market needs. Last year, 80 jobs were re-allocated to the Grosvenor Metro Station Policy Area from White Flint to accommodate ancillary retail uses in a planned apartment complex.

Bethesda CBD Policy Area Ceilings

	Jobs	Housing
FY98 Gross Ceiling	45,464	8,401
1996 Base	38,544	4,978
Pipeline (3/31/97)	2,819	223
Draft FY98 Net Remaining	4,101	3,182

Source: Final Draft FY98 AGP Ceiling Element

There are some indications that the Bethesda CBD construction market is "heating up." There have been two non-residential approvals in Bethesda CBD in the past three months: the 1,091-job office-and-retail Euromotorcars project and the 115-job Highland Park office project. Staff's conversations with developers of proposed projects lead staff to believe other projects will likely be coming in for approval as well.

Park and Planning staff are not suggesting any staging ceiling transfer at this time between the two areas. Staff is merely noting that there is both justification and precedent for "moving" staging ceiling from one Metro station policy area to another if the need arises.

The Council may wish to consider delegating to the Planning Board the ability to transfer staging ceiling among the North Bethesda Metro station policy areas and between the Bethesda/Chevy Chase Metro station policy areas. A scenario of when such a transfer might be considered (although not necessarily recommended) is if a project in one area has almost, but not quite, enough staging ceiling to be approved and there is significant unused capacity in the other area.

Existing and Planned Development in Friendship Heights and Bethesda/Chevy Chase

The table on the previous page shows that the existing base of development in Friendship Heights is 8,573 jobs and 3,297 housing units. The pipeline of approved development contains 2,181 jobs and 405 housing units. These added together constitute the gross staging ceiling needed for Friendship Heights to have a net remaining capacity of zero: 10,754 jobs and 3,612 housing units.

Development Capacity Needed to Support Buildout of Major Parcels in Friendship Heights

Parcel	Jobs	Housing
Hecht's	1,029	100
GEICO	1,314	500
Chevy Chase	1,054	0
Total	3,397	600

Source: M-NCPPC Community-Based Planning Division based on Final Draft Friendship Heights Sector Plan

Additional staging ceiling will also be needed to support planned development in Friendship Heights. The chart to the right shows that the development capacity needed

to support buildout of the major parcels in Friendship Heights is about 3,400 jobs and 600 housing units. There are about 3,200 jobs and 6,800 housing units in remaining capacity in the Bethesda/Chevy Chase Policy Area now.

In addition to planned development in Friendship Heights is the issue of planned development in the remaining Bethesda/Chevy Chase Policy Area. This is particularly important on the jobs side because the net remaining capacity for jobs (compared to housing) is relatively low. The major source of new jobs outside the CBDs in Bethesda/Chevy Chase is at the National Institutes of Health. Forecasts of federal job growth by agency are revised often, particularly in the last several years. Even so, the most recent forecasts are the most probable at this time. The most recent forecast for NIH is an additional 1,700 new jobs by 2015.

Staging Ceiling Recommendations for Friendship Heights and Bethesda/Chevy Chase

Park and Planning staff recommend that gross staging ceilings in the Friendship Heights Policy Area be set at 12,963 jobs and 4,502 housing units. After subtracting existing development and the pipeline of approved development, these gross staging ceilings would result in net remaining capacities for Friendship Heights of 2,400 jobs and 800 housing units.

This allocation would allow the buildout of the planned housing in the Final Draft Sector Plan and would allow approval of all but 1,000 jobs of the approximately 3,400 planned jobs.

Staff is recommending that the gross staging ceilings for the surrounding Bethesda/Chevy Chase Policy Area be reduced by 2,150 jobs and 800 housing units by the re-allocation of jobs and housing units to Friendship Heights. This would result in net remaining capacities of 1,168 jobs and 5,974 housing units in Bethesda/Chevy Chase.

As mentioned earlier, sometimes the re-allocation of staging ceiling from a larger policy area to a compact Metro station policy area provides efficiencies that can add a small amount of development capacity. In the case of Bethesda/Chevy Chase, the amount is indeed small because the land use inputs to the TRAVEL/2 model had already accounted for the fact that Friendship Heights is one of the few locations for new jobs in Bethesda/Chevy Chase. The only other major employment center is at the National Institutes of Health (NIH). However, staff tested adding an additional 250 jobs to the Friendship Heights staging ceiling and the average congestion index for Bethesda/Chevy Chase did not exceed the standard. Staff always attempts to determine the maximum amount of staging ceiling that can be supported by the transportation network; in this case staff felt it was especially important since no new roadway capacity is planned for the three Bethesda policy areas.

Staff is recommending enough jobs capacity be left in the surrounding Bethesda/Chevy Chase Policy Area so that the net remaining capacity for jobs is 1,059. A purpose of this jobs capacity is to address a significant portion of the anticipated increase in employment expected at NIH. NIH's most recent forecast is for 1,700 additional jobs by 2015. The NIH master plan does have as an objective the mitigation of all

trips generated by new employment. If they are successful, B/CC will not need more than a small fraction of the 1,059 in jobs capacity.

Staff also tested the transferability of staging ceiling between Friendship Heights and the Bethesda CBD. The goal was to determine if a job or housing unit in Friendship Heights has the same network area-wide transportation impact as a job or housing unit in Bethesda CBD. Staff's analysis of such transfers is that they do have the same transportation impact. Staff is not recommending that any staging ceiling be transferred between the two Metro station policy areas at this time. If such a transfer is ever needed, however, it could be done.

Additional Amendments to the Annual Growth Policy Regarding Friendship Heights

The current adopted Annual Growth Policy contains language regarding a limit on the number of trips that can be associated with certain properties in the District of Columbia. The limit was the result of an inter-jurisdictional agreement that allocated a specified number of trips to the District and to Montgomery County. As the 1997 Planning Board Final Draft Friendship Heights Sector Plan notes, "the agreement was overtaken by subsequent events."

The language, found on page 20 of the adopted FY97 AGP, reads:

> **(d) Friendship Heights LATR Standards**
>
> Until a new sector plan is approved by the County Council, for analysis of properties located within the Friendship Heights Central Business District (as defined by the 1974 Friendship Heights Sector Plan) that have had preliminary plans of subdivision approved before July 1, 1993, any traffic trips from approved and/or built projects on certain properties in the District of Columbia which exceed the total of 2,329 new trips allocated to those same properties in the District of Columbia pursuant and subject to the August 30, 1973 statement of the Inter-Jurisdictional Policy Task Force on Friendship Heights (as set forth in Appendix "E" and referred to on pages 39-41 of the 1974 Friendship Heights Sector Plan) must not be used in making a determination that local intersections are operating at adequate levels of service.

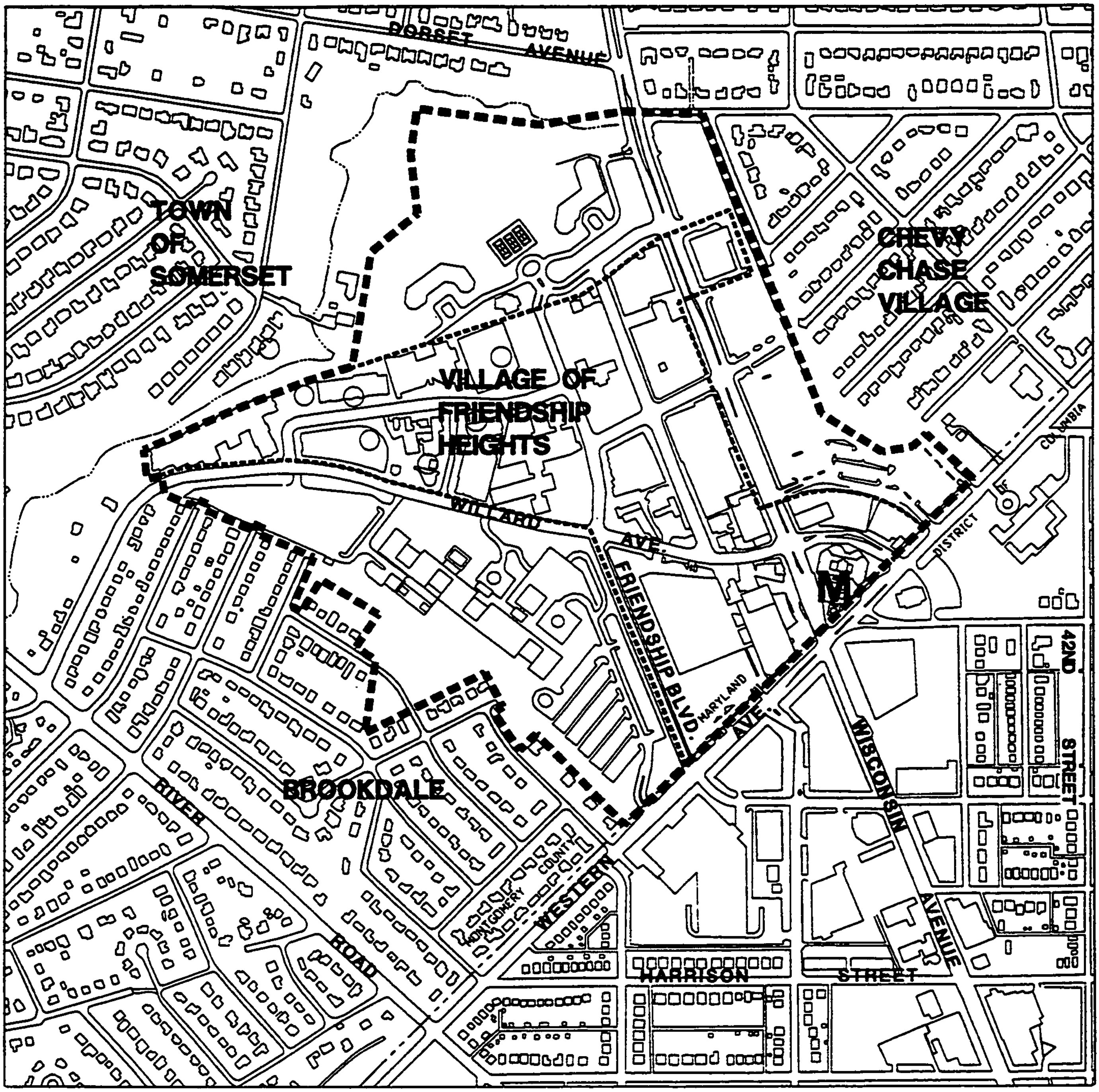
As the new sector plan should be approved by the time this AGP amendment is adopted, staff is recommending removal of this provision. The new sector plan was prepared without using the trip generation limits referenced above.

In addition, the adopted FY97 AGP contains the following language on page 3:

> The administration of the Adequate Public Facilities Ordinance must at all times be consistent with adopted master plans and sector plans. Where development staging guidelines in adopted master plans or sector plans are more restrictive than AGP guidelines, the guidelines in the adopted master plan or sector plan must be used to the extent that they are more restrictive. More restrictive guidelines can be found in the Friendship Heights Sector Plan and the Silver Spring CBD Sector Plan. The ceiling in the Potomac policy area is set at the zoning ceiling based on the policy in the Potomac Master Plan.

The sentence that begins "More restrictive guidlelines..." is explanatory and the reference to the Friendship Heights Sector Plan is to hold it up as an example of a plan where staging ceiling guidelines are more restrictive than in the AGP. The development staging guidelines in the Final Draft Friendship Heights Sector Plan are more in keeping with typical AGP procedures than the 1974 Sector Plan, and therefore staff believes Friendship Heights should no longer be cited in this passage.

Proposed Boundaries: Friendship Heights Policy Area



Glenmont Policy Area

The Park and Planning Department recommends establishing a Glenmont Metro Station Policy Area in Traffic Zones 302, 303, and 304. Staff recommends that the gross staging ceilings for the new policy area be set at 927 jobs and 1,910 housing units. This would result in net remaining capacities for the new policy area of 200 jobs and 500 housing units. It would also result in net remaining capacities for the remaining Kensington/Wheaton policy area of 2,660 jobs and 2,762 housing units.

The extension of the eastern leg of Metrorail's Red Line to Glenmont is scheduled to be completed in mid-1998. In anticipation of the new station, a new Glenmont Sector Plan is being prepared to determine, among other things, the extent to which the new station should be a spur to new development or redevelopment, including what kind of development and at what density.

Like any major transportation facility, the Glenmont Metro Station will provide some additional development capacity to the policy area in which it is located. One issue for Glenmont is whether that additional capacity should be allocated to the existing Kensington/Wheaton policy area, of which Glenmont is currently a part, or to a new, compact policy area immediately surrounding the Metro station.

On a policy area basis, availability of development capacity is less critical an issue in Glenmont than it is in other policy areas. There is currently little competition for the substantial existing development capacity in Kensington/Wheaton. Glenmont's public facilities adequacy challenge is that its major intersection, Georgia Avenue at Randolph Road, is currently handling considerably more traffic than its standard.

One of the attributes of a Metro station policy area is the greater ease with which developers can meet Local Area Transportation Review (LATR) conditions. Metro station policy areas have less stringent intersection congestion standards and developers have more flexibility in meeting those standards. They can either construct needed intersection improvements or take advantage of the Alternative Review Procedure for Metro Station Policy Areas, which allows them approval if they pay a fee based on the size and type of development. The Alternative Review Procedure is available only if a transportation management organization has been formed.

The current congestion at Georgia Avenue and Randolph Road (2100 CLV) is in excess of even the less stringent intersection congestion standard for Metro station policy areas (1800 CLV). This means that unless the intersection is improved or the Alternative Review Procedure is available, additional development or redevelopment will not be able

to be approved. That procedure would be available once the area is designated as a Metro station policy area and a TMO is formed.

The Planning Board Draft of the Glenmont Sector Plan was approved on February 20, 1997 and adoption of the Plan is currently scheduled for fall of 1997. The Draft Sector Plan identifies a solution for Georgia Avenue at Glenmont -- a grade separated intersection. This will be an expensive project and if included in the adopted Sector Plan, will not likely be constructed in the near term.

Kensington/Wheaton and Glenmont Policy Areas

Glenmont *(proposed)*	**Jobs**	**Housing**
1996 Base	727	1,278
Pipeline (3/31/97)	0	132
Remaining K/W *(proposed)*	**Jobs**	**Housing**
1996 Base	12,672	29,906
Pipeline (3/31/97)	272	483
K/W *(existing)*	**Jobs**	**Housing**
Draft FY98 Ceilings	16,261	38,843
1996 Base	13,399	33,468
Pipeline (3/31/97)	462	613
Draft FY98 Net Remaining Capacity	2,760	1,762

Source: FY98 Final Draft AGP Ceiling Element

Current Kensington/Wheaton Policy Area Ceilings

Kensington/Wheaton has never been in subdivision moratorium for jobs or housing units. For FY97, the net remaining capacity for housing stands at 1,762 units and the net remaining capacity for jobs is 2,400.

Demand for capacity in K/W has been modest in recent years because the policy area is already well-developed. There are 613 housing units and 462 jobs in the K/W pipeline and, at 0 housing units and 251 jobs, the K/W queue is easily accommodated by existing capacity.

Glenmont Policy Area Boundary Issues

Policy areas are composed of traffic zones, which are small geographic areas with similar transportation usage and service characteristics. To facilitate the study and creation of a new policy area in Glenmont, Planning staff created seven new traffic zones in the Glenmont area. Taken together, the boundary of the seven zones is the same as the Glenmont Sector Plan Area.

As discussed in *Issue 2: Friendship Heights Policy Area*, Metro Station Policy Areas are intended to be compact -- generally within walking distance of the Metro Station. In evaluating possible boundaries for a Glenmont policy area, Planning staff reviewed the 1978 Sector Plan for the Glenmont Transit Impact Area and Vicinity. In that document, the primary impact area of the Metro station was a circle centered over the Metro station site with a 2,000 foot radius. Six of the seven Glenmont traffic zones are contained, in whole or in part, by that circle. The remaining traffic zone, number 305, is the area to the north of Briggs Road and to the West of Layhill Road. However, no point in the sector plan area is more than 1 mile from the Metro station site.

In the 1995-1997 AGP Policy Element, Planning staff studied Glenmont Policy Area boundaries that were the same as the sector plan boundaries, because it was still early in the sector plan process. However, it was recognized that sector plan area boundaries might not be the most appropriate for the Glenmont Policy Area because a substantial

portion of the sector plan area consists of established single-family neighborhoods that are not recommended by the Planning Board for redevelopment.

Additionally, the sector plan area is large for a metro station policy area. The sector plan area is approximately 568 acres in size (exclusive of rights-of-way), which would make it approximately 80 acres larger than the Wheaton CBD policy area.

Because of the above factors, planning staff is now recommending that the Glenmont Metro Station Policy Area consist of traffic zones 302, 303, and 304. This smaller area still encompasses all of the land recommended for substantial redevelopment and the entire area is easily accessible by pedestrians from the new Metro station.

Existing and Planned Development in Glenmont

The existing base of development in Glenmont is 1,278 housing units and 727 jobs. The pipeline for Glenmont contains 132 housing units and 0 jobs.

The Planning Board (Final) Draft Sector Plan for the Glenmont Transit Impact Area and Vicinity (February 1997) would allow approximately 1,500 additional dwelling units and new non-residential development of less than 200 additional jobs. There is an option method development provision for the shopping center that, if used, will allow additional jobs. Staff is recommending that the staging ceiling needed to accomodate the optional method development not be allocated to Glenmont until the grade-separated interchange at Georgia Avenue and Randolph Road is programmed. This is because of the severity of the congestion at this intersection.

Development Capacity Resulting from Glenmont Metro Extension

How much development capacity can be expected from the extension of the Red Line to Glenmont was first addressed in the FY95 Final Draft AGP. That was the first year the station was fully-funded in the first four years of the capital budget. Because there was little demand for the existing capacity in Kensington/Wheaton, it was decided to wait to count the Glenmont Metro extension until the Glenmont Sector Plan was adopted and the capacity could be considered in the context of a proposed Glenmont Policy Area.

In and of itself, the extension of Metrorail will initially result in only a modest change in traffic patterns and transit use. Clearly, many bus riders will transfer to the Red Line at Glenmont rather than Wheaton, and similarly, many Park and Ride commuters will use the new station, The number of new riders on the system will, at first, be small and traffic impacts marginal, in comparison to existing traffic.

However, the Glenmont Metrorail extension is a major transportation facility and one of the last planned to be constructed in the Kensington/Wheaton policy area. Aside from the new station, the only currently-planned transportation facilities yet to be constructed are primary residential streets, for which additional staging ceiling is not generally allocated, and the proposed Georgia Avenue/Randolph Road interchange.

For the 1995-1997 AGP Policy Element, Park and Planning Department staff tested various scenarios for the proposed Glenmont Policy Area counting the completion of the

Glenmont Metro Station. Among the scenarios staff tested was the hypothesis that the Metro station would provide capacity for the buildout of the Kensington/Wheaton, allocating the capacity in three different ways. Each succeeding scenario allocated more of the proposed capacity to the Glenmont Metro Station Policy Area

Staff's analysis showed that the Metro station does not provide the capacity for full buildout of the Kensington/Wheaton Policy Area. The difficulty is the upstream traffic in Aspen Hill: additional jobs and housing units in Kensington/Wheaton and/or Glenmont attract additional trips through Aspen Hill, worsening its already low transportation level of service.

Staff's analysis also showed that, when the County allocates the additional capacity from the Metro Station opening among K/W, Wheaton CBD, and the proposed Glenmont Policy Area, there are significant benefits to K/W to clustering the new capacity around the Metro stations. However, clustering K/W's development at the Glenmont Metro Station had little impact on Aspen Hill. The lack of benefit to ASpen Hill has a dampening effect on the new capacity that could be added because of the new station.

For this policy element, staff has determined that the maximum amount of additional development capacity that can be allocated due to the opening of the Metro station is 1,500 housing units and 500 jobs. Staff will want to monitor the impact of the station opening on travel patterns and revisit its analysis in the future. Staff is comfortable it has not over-estimated the benefit of the station, but over time the station will likely have a greater impact than in its initial years of operation.

To this end, the proposed ceiling would potentially permit a limited amount fo development under the Alternative Review Procedure as a compromise which recognizes the opening of Metro with the real world constraint of existing congestion.

Recommended Staging Ceilings for Glenmont and Kensington/Wheaton

Park and Planning Staff recommend that the gross staging ceilings for the new policy area be set at 927 jobs and 1,910 housing units. This would result in net remaining capacities for the new policy area of 200 jobs and 500 housing units. It would also result in net remaining capacities for the remaining Kensington/Wheaton policy area of 2,660 jobs and 2,762 housing units.

The above numbers include the additional 1,500 housing units and 500 jobs that can be allocated due to the new station.

These recommendations reflect not only transportation adequacy issues but also "staging" issues. That is, one of the County's tools for staging development is the AGP's allocation of development capacity to a policy area. In the case of the Final Draft Glenmont Sector Plan, staff recommends that only enough capacity be allocated to Glenmont to allow for partial buildout of the plan. This is in part because of staff's concern about the congestion at the Georgia Avenue/Randolph Road intersection.

If sufficient staging ceiling is allocated to Glenmont to support full buildout, and the TMO is created, a large amount of development in Glenmont will be able to proceed by paying the Development Approval Payment and joining the TMO. Because of the con-

gestion at the Georgia Avenue/Randolph Road intersection, and because a solution has been identified that will require significant investment, staff believes it is appropriate for the AGP to limit access to the Alternative Review Procedure for Metro Station Policy Areas in Glenmont. Staff proposes to use staging ceiling to effect these limits; that is, only allocate enough staging ceiling at this time to allow a meaningful but limited amount of development and redevelopment to be spurred by the opening of the Metro station.

If and when a grade separated intersection enters the first four years of the capital program, staff would recommend allocating the full staging ceiling needed to support buildout of the Sector Plan.

Staff could have allocated more staging ceiling to Glenmont and suggested that the timing of the TMO's creation be used to stage development. That is, if the TMO not be created until the grade-separated intersection is programmed, the Alternative Review Procedure would not be available in Glenmont until then either. Staff did not select this option because it believes that it is important for some development and redevelopment to be permitted to occur upon the adoption of a new master plan and the opening of a new Metro Station. This redevelopment activity is an important policy goal of the County. At the same time, staff believes that tying the timing of the creation of the TMO to the programming of the grade separated intersection would unnecessary delay the creation of TMO.

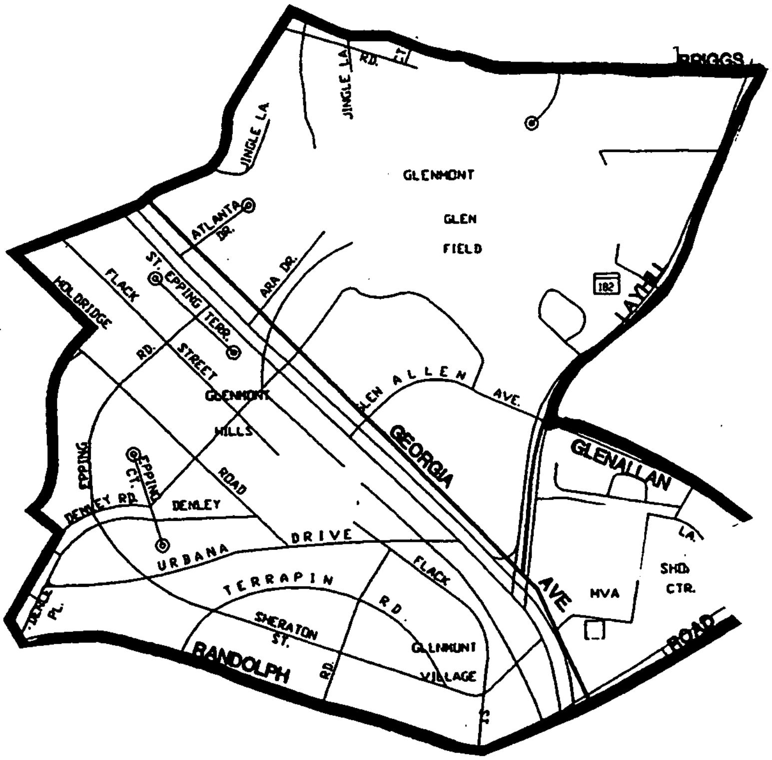
Proposed Staging Ceilings for the Kensington/Wheaton and Glenmont Policy Areas

Glenmont *(proposed)*	**Jobs**	**Housing**
Draft FY98 Ceilings	927	1,910
1996 Base	727	1,278
Pipeline (3/31/97)	0	132
Draft FY98 Net Remaining Capacity	200	500

Remaining K/W *(proposed)*	**Jobs**	**Housing**
Draft FY98 Ceilings	16,194	35,433
1996 Base	12,672	32,190
Pipeline (3/31/97)	462	481
Draft FY98 Net Remaining Capacity	2,660	2,762

Staff notes that an interim remedy for the Georgia Avenue/Randolph Road intersection is likely to be provided within the foreseeable future. This is an additional through and right turn lane on southbound Georgia Avenue. This will improve conditions in the morning peak period only. Staff recommends that the County revisit the staging ceiling allocation to Glenmont from K/W when that intersection improvement is programmed.

Proposed Boundaries: Glenmont Policy Area



Issue Four

Evaluating LATR Standards

Because of its complexity, this issue is being addressed in a separate reprt, entitled "Monitoring and Evaluating Stardards Used in Local Area Transportation Reviews," which is available from the Transportation Planning Division of the Montgomery County Department of Park and Planning. The following is the executive summary from that report.

County Council Request

The FY 1995 Annual Growth Policy (AGP) amendments revised the standards used in Local Area Transportation Reviews (LATR). One reason given in the June 29, 1994 M-NCPPC report recommending revised critical lane volume (CLV) levels was "We can raise the standards in the more urbanized areas of the County and have limited risks of excessive delay."

The Montgomery County Council adopted the recommendations along with a request to further monitor and evaluate the LATR standards. The request specifically stated:

> Monitoring and Evaluating LATR Standards - The Planning Board, with the aid of the Executive and in consultation with the community, monitor and evaluate congestion and pedestrian use at intersections higher than 1,525 Critical Lane Volume to recommend whether the Local Area Transportation Review standards adopted in the FY 1995 Annual Growth Policy should be further adjusted.

Intersection Congestion Work Group Response

After a reasonable amount of investigation, the group concludes that the LATR standards adopted in the FY 1995 Annual Growth Policy should be retained. The standards, ranging between 1,450 in rural areas and 1,800 in Metro Station areas, recognize the acceptance of increasing levels of congestion in areas of the County served by higher levels of transit service.

The Critical Lane Volume method should continue to be used as the basis for setting standards and measuring congestion at intersections in Montgomery County. The CLV method is a nationally-recognized method for measuring congestion that has been used in Montgomery County for over 25 years. It involves a simple mathematical process that is accepted by local transportation professionals and is easily understood by both decision makers and interested citizens. The results of the CLV method produce a conservative estimate of intersection congestion and are comparable to and consistent with the

1994 Highway Capacity Manual's Planning Method, the other nationally-accepted method for calculating intersection congestion for planning applications. The widely quoted "intersection delay calculations" are still used for operational analysis, but the need for many assumptions about operational aspects makes this procedure not feasible for analysis of future situations where only limited information is available.

A number of other conclusions also were made and are summarized below.

Study Objective to Address the Council's Concerns

In the summer of 1995, the Planning Department convened an Intersection Congestion Work Group (ICWG) consisting of staff and citizens. Staff of the Transportation Planning Division of the Montgomery County Park and Planning Department lead the group. Montgomery County Department of Public Works and Transportation (DPWT) traffic engineering and transportation planning staff and University of Maryland research staff supported them with technical assistance and, when possible, with data. Three interested citizens were members of the ICWG and were an integral part of the process, reviewing and commenting, and having all products available to them. The very limited data collection resources in the Planning Department budget were used to conduct concurrent monitoring studies of intersection turning volumes and average delay by approach lane groups, i.e., through, right and left turns, at a selected number of locations.

The ICWG specified that the particular objective of the study was to analyze intersections in Montgomery County with CLVs above 1,525 to:

- See if they have characteristics of excessive delay or poor safety;
- Determine if these characteristics are related to factors that could be incorporated into traffic impact studies; and
- Make recommendations on revising the AGP standards, if appropriate, based upon the study.

The central question to be answered is "Are we setting standards that have limited risks of excessive delay?"

Summary of Study Analysis Process

The analysis process of the ICWG involved exploring a number of different avenues of both practical and more theoretical investigation. The group investigated the following areas of traffic engineering and transportation planning to search for the relationships and information that would be useful in carrying out the charge of the group.

- Identified some 50 of the most congested intersections in the County, rating them subjectively on a 1 to 5 scale of delay based on observations from DPWT's ATMS staff monitoring traffic from the County's airplane. These intersections were plotted by CLV and judgmental delay rating, to identify ones where there might be more than expected delay. This provided a basis for selecting where to gather detailed delay data.

- Used a consultant to gather detailed morning and/or evening peak period data at six intersections, including turning movements, delay, and operational observations. This data was broken into two one-hour segments for study, as well as for the peak one hour within each peak period.

- Made field observations at a number of other congested locations in the County, with data and judgements being made about lane widths, presence and operational effects of commercial driveways, turning movements, and other geometric aspects that could influence the intersection operations.

- Conducted mathematical investigation of many potential relationships between variables using regression analysis and other techniques. Variables included CLV, delay, ratio of minor street to major street CLV, and classification of street.

- Read and investigated in depth the 1994 Highway Capacity Manual operational and planning methods, and how they relate to issues of capacity and include variables or adjustment factors.

Intersection Congestion Work Group Findings and Recommendations

The principal findings of this study are:

1. Intersections with CLVs between 1,525 and 1,650 are near but not over "operating" capacity and do not have high risks of experiencing excessive delay. Measured average delays at most of the intersections studied in 1996 and 1993 were consistently within the range defined as "acceptable" in the 1994 Highway Capacity Manual, i.e., less than 60 seconds per vehicle.

2. Intersections with CLVs between 1,650 and 1,800 are at or above "operating" capacity, with risk of experiencing excessive delay. A small percentage of County intersections operate with CLVs above 1,800 and some CLVs approach or exceed 2,000. Such locations have a high risk of experiencing excessive delay. The County Council has made a policy decision to accept a CLV of 1,800 in Metro Station Policy Areas, based on the presence of above average transit service, good traffic circulation alternatives and a safe pedestrian environment. A backup process is in place in the Silver Spring CBD, with the requirement for a queuing study, as a safeguard against creating conditions of unacceptable congestion and delay.

3. An in-depth review of the 1994 Highway Capacity Manual planning method, utilizing factors consistent with the practices of DPWT staff who operate the traffic signal system, determined that a critical lane volume of 1,660 is a reasonable practical "capacity" of an intersection at which risk of unacceptable delay should not occur. This is consistent with the upper limit of the standards adopted by the County Council for all policy areas except Metro station areas.

4. Although the analysis noted above did not identify major revisions needed to the AGP/LATR standards, a number of aspects worthy of note and monitoring came to light. One is that although there is not a direct relationship between CLV and delay, it is apparent that delay may increase more rapidly when the capacity of the intersection is neared or reached. The definition of this capacity is difficult to make, since cases can be found

where high CLV's have delay below 60 seconds average (the HCM threshold for LOS F). However, above a CLV of about 1,650, the risk of unacceptable delay increases. The group understands the public policy objectives behind a CLV of 1,800 in Metrorail station areas. However, it must be understood that this standard can result in delays to motorists that may be considered excessive.

Additional findings from this study are:

5. Some fine-tuning of the CLV procedures could be tested based on adjustment factors found in the 1994 Highway Capacity Manual. These factors could include calculating a peak hour factor accounting for the peaking withing the peak hour, and modifying the lane use factors on multiple lane roadways to account for spreading of vehicles more uniformly in congested situations. However, it appears that adding these may somewhat cancel each other out, since one would tend to bring the CLV up, the other to bring it down, each by a slight amount.

6. The group found that the direction the DPWT staff is taking in implementing longer signal cycles at intersections during peak periods is a positive one, and should be encouraged. It was also strongly held by the group that the Advanced Transportation Management System (ATMS) is very effective in keeping down delay, and risk of unacceptable delay, at signalized intersections.

7. One physical configuration factor to be explored at congested intersections is finding ways to remove one or more of the turning movements. These movements can be relocated to a less congested location, or spread over several alternate routes. Examples of this working effectively are at Georgia Avenue/Colesville Road, in Silver Spring, and Georgia Avenue/University Boulevard in Wheaton. Removing a heavy, multi-laned turning movement greatly decreases the potential delays at an intersection with high volumes, although an acceptable alternate location must be found.

8. An additional physical factor that was found to influence the delay at an intersection in some situations was the length of a left- or right-turn lane. If the lane is not sufficiently long to accommodate the turning movements, the turning vehicles merged with the through lanes, and held up movements in one or more of those lanes. A check of the turning lane length is sometimes made at Subdivision, but more attention to this could reduce the risk associated with this problem.

Additional Issue

In the course of this effort, the ICWG identified an issue considered to be beyond the scope of work of this effort. The issue is the need for a better understanding of how CLV standards work in practice to control congestion and delay. A consensus was not reached by the ICWG on the significance of this issue to the APFO process and, since this issue was deemed beyond the scope of the ICWG's task, no work was undertaken to quantify its significance.

The LATR is the only intersection-specific pass-fail transportation review under the County's system. The APFO does not require mitigation to restore failing intersections to meet current CLV LATR standards. Several factors adding to the CLV/delay of an intersection are not accounted for under the LATR, such as growth in traffic with origins and

destinations outside the policy area. A review of this topic could lead to recommendations to adjust the LATR process to better enable acceptable CLV levels to be attained in the future performance of evaluated intersections.

Issue Five

Pipeline Reform

Park and Planning Department staff recommends that pipeline reform focus on: whether to shorten the time limits of a finding of adequate public facilities (APF) on future approvals only, and on discounting the pipeline based upon anticipated APF expirations in 2001. Staff recommends continued attention to identifying barriers to construction of projects already approved.

This issue addresses concerns raised by the large and generally inactive pipeline of approved non-residential development. The main concern has been that development capacity for new non-residential projects is scarce in some areas of the County, while, at the same time, there are non-residential projects that have been in the pipeline for a long time (reserving development capacity) but which have not yet started. The fear has been that "dead" projects are keeping viable projects from being approved. One goal of pipeline reform is to increase the availability of development capacity to projects that are ready to move ahead.

Another goal of pipeline reform has been to more closely tie the pace of development to the provision of public facilities. In some areas, an inactive commercial pipeline is supported by existing publicly-funded infrastructure. In other areas, the pipeline exceeds the development capacity provided by existing or programmed facilities.

This issue was studied in depth by the Planning Board for the previous (1995-1997) Policy Element, building on an earlier study in the FY94 AGP. The 1995 review included significant public and private sector input. Among the alternatives debated were shortening the time limit on an APF approval for already-approved projects that have shown no activity for a certain period of time (say, six or nine years), allowing the Planning Board to vary time limits on future APF approvals based on project size and type, and permitting projects in the pipeline to transfer capacity to a project in the queue. Of these, only reducing time limits on future approvals, varying by project size and type, was endorsed by the Planning Board (although the Board suggested that transferable staging ceiling might be an appropriate tool for encouraging demolition of obsolete structures in redevelopment areas). The County Executive endorsed reductions on future approval time limits in concept but also endorsed transferable staging ceiling on a countywide basis. The bulk of the public testimony supported both as well, although the development industry trade association suggested that suspending the AGP entirely was a preferred solution. The issue was referred to the Council's Planning, Housing and Economic Development Committee, which has not yet addressed the issue.

This section contains a review of previous analysis and discussion of this issue and an update of statistics relevant to pipeline policy.

Relevant Aspects of Pipeline Administration

The discussion of pipeline reform may be informed by a review of aspects of current pipeline administration.

What is the pipeline? The pipeline of approved development ("pipeline") is a list of all development projects that have met the Annual Growth Policy's (AGP's) adequate public facilities (APF) tests.

Why the focus on transportation facilities? In all areas of the County, the current limits on approved development are based upon the transportation facilities test. This is because the amount of development allowable under the tests for other facilities (schools, etc.) exceed that allowed by the transportation test.

What is "publicly-funded transportation capacity?" When a transportation project is wholly funded within the first four years of the capital budget, the County estimates the amount of development the transportation improvement can support. The County allocates this capacity to subareas of the County, called "policy areas." There is a separate allocation for residential and non-residential development in each area because the travel characteristics of jobs and housing are different. "Staging ceiling" is the maximum amount of development that can be supported by the transportation network in a policy area.

How does a development project typically enter the pipeline? Typically, a developer will get in line (the "queue of pending development") to use publicly-funded transportation capacity. Publicly-funded transportation capacity is generally allocated on a first-come, first-served basis. The allocation occurs at subdivision. Developers receive as much capacity as their project requires until the capacity is used up. When the capacity is all allocated, the area is put into subdivision moratorium.

What is a moratorium? When the amount of approved development equals or exceeds the amount of transportation capacity in an area, the area is closed to new subdivision approvals (moratorium) except under particular circumstances.

How do approvals occur in moratorium areas? A developer may agree to provide the transportation infrastructure needed by his development project (either alone or through a development district), or agree to remove as many trips from the roadway as his project would create for a period of time (typically ten years). If the developer is providing infrastructure, the improvement must be under construction and funds committed to its completion before he can begin construction of his development. In the case of "trip mitigation" the trip removal must be verified prior to construction. There are additional alternatives for developers of residential projects. A developer of a residential project may agree to provide a specified amount of affordable housing, or he may agree to pay a fee. Use of the last two provisions is limited by a number of conditions.

What is the time limit for a finding of adequate public facilities? The current time limit is twelve years, with two important caveats. Partially-constructed resi

dential development effectively has no time limit. Any development project approved prior to 1989 has 12 years from 1989 to develop, rather than 12 years from the original approval. Projects approved under the Alternative Review Procedure for Limited Residential Development have three years from when the plat was recorded or the site plan approved, whichever is later. This is effectively a limit of six years.

Can projects be removed from the pipeline for reasons unrelated to APF? Development projects have other time requirements that must be met. The major one is a time limit to record plats (typically three years, although for some large projects, recording of plats may be staged).

Background and History

The "Pipeline Reform" issue has been under discussion since 1991, when the then-Office of Planning Policies prepared a report showing the age and activity status of the pipeline of approved development. That report was updated in 1993 as part of the preparation for the FY94 AGP.

The 1993 Pipeline Reform Study

The 1993 report looked at commercial and residential projects approved before 1989 by completion status (no activity and partially complete), size, and policy area. It compared pipeline size to the forecast pace of development.

The analysis of the then-existing pipeline found that the majority of commercial projects were approved in 1989 or later. The year 1991 was an especially big year for commercial approvals. About 12,500 jobs were in projects older than 36 months with no completion activity out of a total of 116,000 jobs in the pipeline. At the then-forecast pace of commercial development, it was expected that the commercial pipeline would take at least 10 years to absorb.

The commercial pipeline analysis looked at each policy area that was then in moratorium to see what the effect would be of applying shorter time limits to the existing pipeline. Reducing the APF time limit to ten years would have brought one area out of moratorium: Germantown Town Center, which was brought out of moratorium later with road projects programmed by the County. The ten-year time limit would have substantially reduced the jobs deficit in Montgomery Village/Airpark, Fairland/White Oak, and to a lesser extent, Germantown West (also no longer in moratorium). However, much of this reduction was due to the assumption that loophole properties (projects approved prior to 1989 and under current law have until 2001 to build out) would be subject to the ten-year limit. Several of these projects were approved in the early 1980s. Further shortening the time limit to seven year was found to have little effect.

The residential pipeline analysis showed a younger and more active pipeline. At the forecast pace of residential development (which has since been reduced). it was estimated that the County would take a little over six years to build an equivalent number of housing units as the pipeline then contained (about 32,000 units). Shortening the time limit to ten years had little effect on the residential pipeline, and the effect of shortening the time limit to seven years was to eliminate the deficit that Germantown West had at the time and added to the positive capacity in Olney.

In addition to reviewing the status of pipeline projects, the 1993 study evaluated a wide variety of approaches to pipeline reform, including those shown in the box on the next two pages. Of these, Park and Planning staff recommended further consideration of three: (1) shortening the time limit of an APF approval, (2) allowing the transfer of staging ceiling from one project to another in the same policy area, and (3) mechanisms for helping developers create their own capacity. The third mechanism (specifically, development district legislation) was already proceeding on a separate track and was adopted the next year.

An approach not considered in this analysis was allowing developers on a limited basis to pay a fee in exchange for APF approval. The next year, the Council adopted this concept in the two Alternative Review Procedures. The Alternative Review Procedure for Limited Residential Development is the subject of analysis in another chapter of this report.

During its worksessions, the Planning Board looked closely at the question of shortening the time limits of an APF approval. In particular, the Board was concerned that shorter time limits might be inappropriate for some projects, such as larger, multi-phased developments. At the same time, the Board recognized that these larger projects can represent a substantial investment of public infrastructure that could be tied up by an inactive project for a considerable period of time. The Board therefore endorsed "interim performance criteria," to test the activity status of projects with longer APF time limits. An example: A project may receive a 6-year APF approval with an automatic extension to 12 years if the project is one-third complete by the end of the sixth year. The Board endorsed applying the new time limits to the existing pipeline. The Board also endorsed transferable staging ceiling while noting its concerns.

County Executive Potter's recommendations for the FY94 AGP included a market-based analysis of development as well as an alternative methodology for determining the utilization of transportation capacity by development. The conclusion of the Executive's analysis was also that the size of the commercial pipeline was very large compared to the pace of development and that a significant portion of the pipeline would probably never be constructed. He also identified a shortage of single-family housing approvals. The Executive recommended consideration of changing the point of APF testing from subdivision review to building permit or, alternatively, a market-based discount of the residential pipeline to allow additional single-family approvals. He also recommended looking at converting some jobs capacity to housing capacity.

In its review of the FY94 AGP, the County Council agreed to address the pipeline question by varying the time limits of an APF approval based upon the size and type of development, by requiring that that projects move to construction within a specified time

period, and by allowing the transfer of staging ceiling from one project to another. The Council left open the question of whether to apply new time limits to the existing pipeline. The Council directed the Planning Board, with the aid of the Executive, to develop specific rules for these approaches in the 1995-1997 AGP Policy Element. The work on this occurred during calendar 1995.

The 1995 Pipeline Reform Study

The scope of the 1995 pipeline reform study was narrower but more detailed than in 1993. This is because preferred mechanisms had been selected and the focus was on developing rules for implementing these general approaches. To some extent, the question of whether the new rules would apply to the existing pipeline (and if they did, what would the effect be?) overshadowed the other elements of the debate.

Park and Planning staff presented to the Board proposed rules for implementing APF time limits based upon the size and type of development, for requiring that projects move to construction within a certain period, and for transferable staging ceiling. Staff recommended the following:

1. *Two time limits for APF approvals: Small projects (defined as 200 housing units or less and 800 jobs or less) would receive a six year time limit; large projects (more than 200 housing units or more than 800 jobs) would receive twelve years.*

2. *A requirement that large projects show progress in first six years: As part of the Planning Board's review of preliminary or site plans, the applicant for a large project would have to submit a phasing schedule indicating that building permits for the first 200 housing units or 800 jobs would be obtained and construction initiated within the first six years of their approval.*

3. *Allow the transfer of staging ceiling from one project to another in the same policy area.*

Staff also considered defining "small" projects as those of less than 100 units or less than 400 jobs. Staff felt that this definition of "small" did not have an appreciable impact on the pipeline. Additionally, staff analyzed a "6-9-12" scenario which would have designated small, medium, and large development projects and assigned them APF time limits of 6, 9, and 12 years respectively. Staff felt that this approach was more complex without generating additional benefit.

The Board held two worksessions on the proposals. On the issue of transferable staging ceiling, the Board noted that their earlier endorsement had been tempered with reservations about the appropriateness of allowing developers to sell publicly-funded development capacity. The Board was also concerned about creating a market for the trading of development capacity and suggested that such a mechanism could confer additional legal rights to the holders of capacity. In addition, the Board felt that transferable staging ceiling would have limited utility if the existing pipeline were "realigned" using the new time limits. Because of these concerns, the Board could no longer endorse transferable staging ceiling.

Options For Pipeline Reform

The options for creating a better match between the pace of development and the provision of infrastructure may include mechanisms to help speed buildout of the pipeline, to target development capacity first to projects that are more likely to move forward; to remove inactive projects from the pipeline, and to increase the amount of approved development (either by raising staging ceilings or by allowing development to be approved despite moratoria). This is a list of a range of possibilities, not a list of recommended approaches. Some are infeasible or undesireable; others are already being done.

Speed Buildout of the Pipeline

Public incentives/partnerships: The County may provide incentives to encourage approved projects to begin construction. These may be related to the APF conditions placed on the development, or may be unrelated. Incentives may be directed toward developers or may be directed toward firms wishing to locate in the County in new space. Incentives may also take the form of public/private partnerships that enable publicly-desired development to take place. Because they require public expenditures, use is typically limited to instances where clear public policy objectives will be met. It may be inefficient to apply a standard package of incentives in a widespread manner as the amount and type of appropriate incentive would vary on a case-by-case basis. Current County economic development activities to attract and retain firms have the effect of improving the climate for non-residential construction. Partnerships include business incubator space, the conference center, and the Silver Spring redevelopment.

Information: Current work program initiatives such as the commercial site characteristics inventory will help the County match firms with pipeline projects. The class B&C office study will help the County determine how to address this under-utilized resource.

Changing the point of testing for adequate public facilities from subdivision to building permit: If projects do not receive APF approval until they are ready proceed to construction, the pipeline would consist solely of active projects. However, this would require developers to invest a considerable amount of money in upfront costs while their APF status is uncertain.

Target Allocation of Development Capacity

Staging ceiling reserve: The County need not allocate all capacity from publicly-funded infrastructure on a first-come, first-served basis. The County may reserve some capacity for development projects which meet its economic development objectives or which seem most likely to move forward, such as an office building with a signed lease agreement.

Sell development capacity: The County could charge for all publicly-funded development capacity as it is added to staging ceilings. This could be an annual auction of new development capacity or it could involve setting a fee for each unit of capacity in each policy area. This would likely yield a more active pipeline, since developers would be disinclined to purchase development capacity unless they were ready to use it. However, it would increase the cost of development, which might further depress development activity. It may also confer additional rights to capacity purchasers.

Allocate New Capacity to New Development: Currently, publicly-funded development capacity is first allocated to erasing deficits and secondly to supporting new developent. Under certain circumstances (deficits caused solely by approved but unbuilt development or to allow publicly-desired development to move forward), the County may wish to allocate a portion of new capacity to new development even where a deficit exists. Development districts are one method for accomplishing this.

Remove Inactive Projects From the Pipeline

Shortening the time limit on a finding of adequate public facilities: A simple shortening of the time period would give each project less time to move to construction and allow the County to remove inactive projects earlier. A danger is that active projects will be removed as well. Varying the time limit based on size and type of development would address these concerns, particularly if projects with longer time limits are subject to an interim test for activity. Still, definitions of "activity" are subject to debate.

Transferable staging ceiling: This allows developers with unapproved projects to purchase development capacity from another developer already in the pipeline in the same policy area. In other words, an inactive project would be replaced by a new, presumably more active project. This would increase developer's access to capacity and may increase the likelihood that the capacity would be used. A concern is that a market in capacity may confer rights to "owners" of that capacity that they do not currently have.

Wait for 2001: The first projects subject to the 12-year APF time limit will see their approvals expire in 2001. If the current pipeline ages four years without completion activity, the amount of jobs development removed because of APF expiration will be significant: about 130 commercial projects containing almost 40,000 jobs (35 percent of the current jobs pipeline). Much of that capacity would be available for new approvals.

Increasing the Amount of Approved Development

Discounting the pipeline: This typically means assuming that a percentage of the pipeline will never be built, and allowing approvals above the staging ceiling commensurate with that percentage. Alternatively, the County could allow unlimited approvals in every policy area where the 12-year forecast is supported by the transportation network (because there is a 12-year time limit on APF approvals). This method depends on an accurate forecast of future development activity by policy area. If an unanticipated change in market conditions occurs, the County may find that it approved more development than the transportation network can handle.

Counting public facilities programmed beyond the fourth year of the CIP: The County previously counted the capacity created by partially-funded infrastructure in the later years of the capital budget. Delays in or cancelling of these projects can result in development approvals for which there is no transportation capacity.

Accelerate Transportation Infrastructure Delivery: The County could allocate more of its budget to transportation projects; the state could increase the amount of transportation funding for projects in Montgomery County. At the County level, this would mean a reduction in expenditures for other County priorities. The County already engages in efforts to secure needed funding from the state.

Reducing or modifying level of service standards to allow more development to be approved: If more congestion is permitted, more development can be approved.

Allowing approvals in moratorium areas in exchange for a fee: This is currently permitted by the Alternative Review Procedure for Limited Residential Development. A detailed analysis of this procedure is contained in this report.

Mechanisms for helping developers create their own capacity: The County requires that developer-funded infrastructure be under contruction and funds committed to its completion before development can begin. The County could relax this requirement to allow developers to use revenues from partially-completed projects to finance infrastructure. A danger is that the County may see the partially-completed development, but not the infrastructure. Development districts do not relax this requirement, but make infrastructure more affordable to the private sector through the use of bonds.

Regarding the various time limit proposals, the Board found that too many questions remained unanswered. They requested that over the August recess, Park and Planning staff work with staff from the County Council and the Executive, members of the development industry, and citizens to work out as many of the outstanding issues as possible. This would give the parties most affected by pipeline reform additional time to study the problem and proposed solutions; it was also intended to help clarify issues for the Board. The Pipeline Reform Workgroup met three times and came to consensus on the general attributes of a process for setting time limits on an APF finding for future approvals. There was less consensus on the specifics. However, the development community was solidly against applying new rules to existing pipeline projects while the citizen representatives were more in favor of it.

Park and Planning staff prepared a report outlining the issues identified by the Working Group and the various positions of the Working Group on each issue, including points of contention and consensus. Staff also presented a revised recommended approach for setting APF time limits and for applying those new limits to the existing pipeline, if desired.

In its final worksession, the Planning Board noted that the main objective of pipeline reform was to address the problem of a large and inactive existing pipeline and that the importance of how to handle future approvals was modest by comparison. At the same time, the Board felt that while it was clear that a large portion of the commercial pipeline would never be built, it was very much unclear which projects were likely to proceed and which ones were not. A partially-completed project could be equally inactive as a project that had no completion activity at all. The Board heard considerable testimony from the development community that a lack of demand for commercial space, especially office, was the primary reason for a lack of construction activity and that these "inactive" projects were being actively marketed by their developers.

Given this situation, the Planning Board recommended to the County Council that none of the proposed pipeline reform measures be implemented. To quote from the Board's letter to the Council: "The Board is persuaded that that the majority of projects in the pipeline are active in the sense that that they are ready to move forward as soon as a buyer or tenant is identified. The Board is not convinced that retroactively applying shorter time limits is the answer to stimulating buildout of the existing commercial pipeline, which appears to be held back by existing market conditions rather than how the pipeline is administered."

At the AGP Public Hearing, the County Council heard testimony from the County Executive, development industry representatives, and citizens. The County Executive supported reduction of time limits on future approvals, although not necessarily the specific mechanism put together by Park and Planning staff, as well as transferable staging ceiling. Some development industry representative suggested that reduced time limits of future approvals was reasonable. They also supported transferable staging ceiling. The testimony of the Suburban Maryland Building Industry Association supported suspending the AGP. Pamela Lindstrom, a citizen member of the Working Group, testified to the problems caused by the large pipeline and to the consequences of doing nothing. She

noted that shorter time limits would allow more developers an opportunity to use development capacity, which in turn would increase the likelihood that it would be available to a developer when he was ready to move ahead. She also endorsed transferable staging ceiling.

The County Council referred the issue to the Planning, Housing and Economic Development Committee, which has not yet addressed the issue.

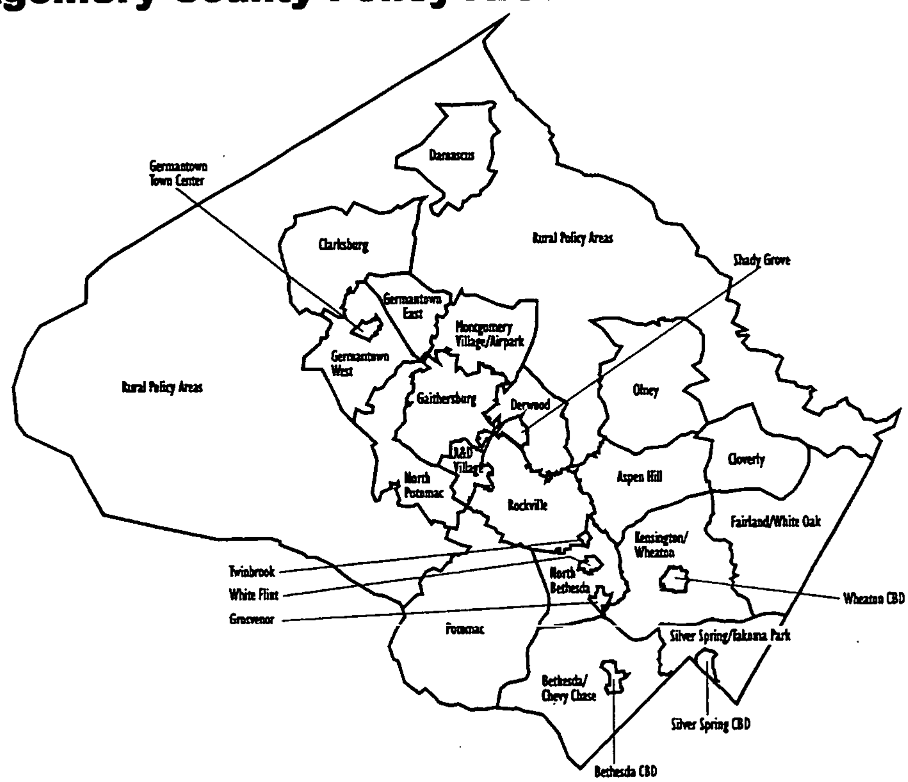
The 1995 Proposals

Park and Planning staff has included, in some detail, the last proposal for setting APF time limits and for transferable staging ceiling. By doing so, staff is in no way suggesting that the Planning Board may wish to change its position on them. Staff is including them to show what was "on the table" when the issue was last addressed. These are shown in boxes at the end of this chapter.

Pipeline and Development Trends

In 1997 the commercial pipeline is still large and inactive. Retail development is fairly active, and many of the market conditions needed to spur office and industrial development have improved, but not to the point that developers are seeking building permits. The commercial pipeline has grown larger, but the number of policy areas in moratorium for new jobs has remained stable at four.

Montgomery County Policy Areas



Pipeline Trends During Recent Years

The Annual Growth Policy is concerned with the relationship between the provision of public facilities to support development and the pace of development. This table summarizes recent trends, showing that in recent years, the County has added new development capacity faster than it is being used by new development. The third table shows that in the majority of policy areas, there is more than enough capacity to meet the five year forecast for that area.

JOBS	Net Remaining Capacity July 1	Number of Policy Areas in Moratorium*	Pipeline of Approved Development July 1	Percent of Pipeline Constructed in Fiscal Year	Queue of Pending Development in Draft AGP
FY92	19,972	13	110,705	5.1%	65,496
FY93	19,163	13	118,555	4.1%	33,488
FY94	29,111	9	111,048	1.8%	25,823
FY95	48,263	4	101,963	2.2%	29,867
FY96	43,889	3	102,269	3.8%	28,711
FY97	41,786	4	105,499	3.3%	29,615
as of March 31, 1997	34,567	4	124,336	—	

**Not including municipalities*

HOUSING	Net Remaining Capacity July 1	Number of Policy Areas in Moratorium*	Pipeline of Approved Development July 1	Percent of Pipeline Constructed in Fiscal Year	Queue of Pending Development in Draft AGP
FY92	15,982	10	33,747	11.8%	12,421
FY93	18,246	10	34,029	8.9%	8,114
FY94	22,621	6	30,058	9.7%	10,421
FY95	35,414	7	29,352	9.7%	8,605
FY96	35,172	7	32,160	9.2%	4,113
FY97	36,248	6	33,426	9.3%	3,666
as of March 31, 1997	33,791	6	36,355	—	

**Not including municipalities*

How the AGP is Constraining Development

Number of...	Jobs	Housing
Policy Areas	25	25
Policy Areas Not in Moratorium	21	19
Policy Areas Where Pipeline > 5 Year Forecast*	17	19
Policy Areas Where Pipeline + Remaining Capacity > 5 Year Forecast	24	23
Policy Areas With Capacity to Support Queue	18	18

**The forecast is based, in part, on the size of a policy area's pipeline and its moratorium status.*

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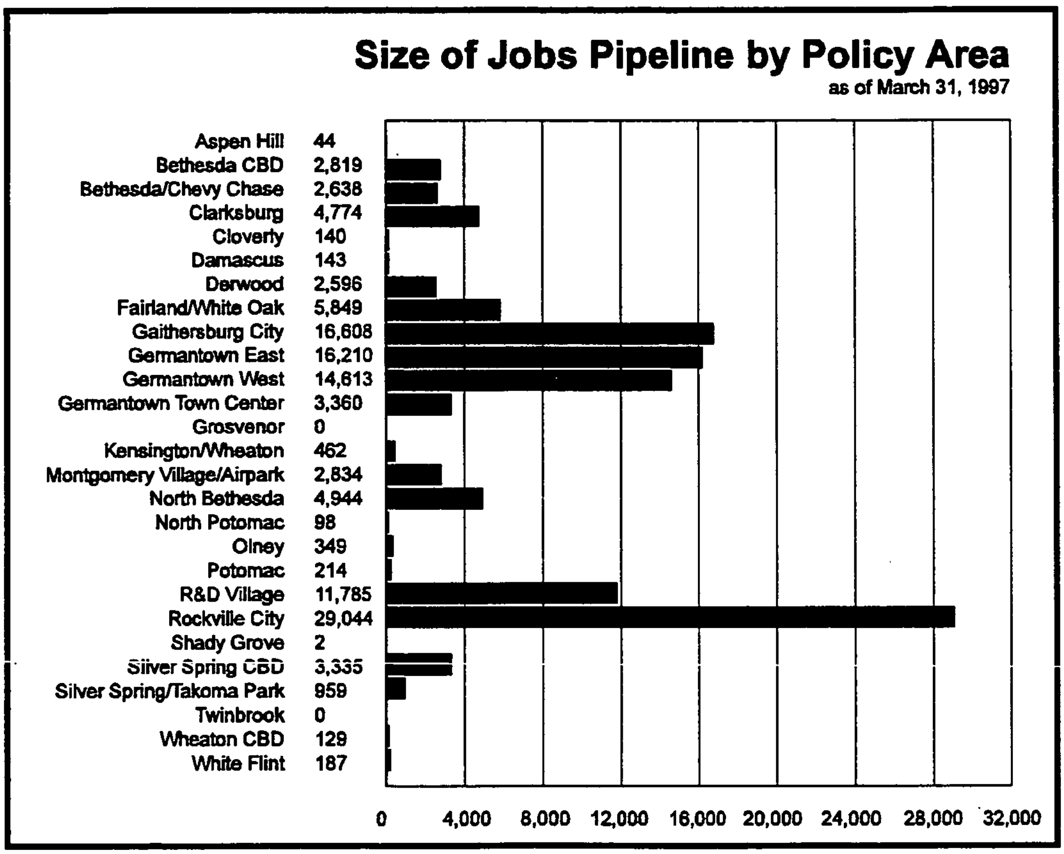
Non-residential development trends are summarized in Appendix 1. In general, the pace of non-residential development remains at historically low levels. In 1996, office completions fell to just 67,000 square feet (268 jobs) and industrial space completions was 90,000 (200 jobs) square feet. The brighter spot was retail development, which exceeded 900,000 square feet (2,250 jobs).

To put that into perspective, Park and Planning staff estimate that about 3.3% of the non-residential pipeline was completed in FY97. In the meantime, the size of that pipeline has grown significantly. Since July 1 1996, the pipeline has added projects totalling 18,837 jobs, growing in nine months from 105,499 jobs to 124,336 jobs. Net remaining capacity has fallen from a high in July 1995 of about 48,000 jobs to its current level of 34,567 jobs. Together, the pipeline and net remaining capacity would support nearly 160,000 new jobs (there are about 460,000 jobs in the County now).

Policy areas in moratorium for new jobs are: Montgomery Village/Airpark, Clarksburg, Derwood, and Fairland/White Oak. Each has a relatively large unbuilt pipeline.

Residential development in the County has remained at around 3,000 units per year for the past several years. Single-family construction (attached and detached) has been virtually constant, with nearly all of the variation due to the ups and downs of multi-family construction. The percentage of the residential pipeline that has been constructed has also remained fairly constant at between 9 and 10 percent per year since 1992.



The pipeline currently contains over 36,000 housing units with almost 34,000 in net remaining capacity. Six policy areas are in moratorium for new housing: Aspen Hill, Fairland/White Oak, Clarksburg, Damascus, North Potomac, and Montgomery Village/Airpark.

The M-NCPPC Research and Technology Center completed a detailed analysis of the existing pipeline a few months ago based upon the September 30, 1996 pipeline. Called "Montgomery County's Annual Growth Policy Pipeline of Planned Development," the report is available from the Development Review information counter. The report contains a number of useful summary tables as well as listings of every pipeline project by location, size, activity status, and other characteristics.

The following is a summary of the non-residential and residential pipelines by policy area taken from statistics in that report. Particular attention is paid to projects that are more than 6 years old that have not yet started construction.

Non-Residential Pipeline as of September 30, 1996

Aspen Hill

Net Remaining Capacity (jobs):	139
Pipeline (9/30/96):	14
Jobs in "Not Started" Projects Older than 6 Years:	14
Percent of Pipeline Not Started/Older Than 6 Years:	100%

The 14 jobs in the Aspen Hill pipeline are associated with the Layhill Kinder Care facility, which was approved 10 years ago and has not been started.

Bethesda CBD

Net Remaining Capacity (jobs):	5,307
Pipeline (9/30/96):	1,613
Jobs in "Not Started" Projects Older than 6 Years:	1,252
Percent of Pipeline Not Started/Older Than 6 Years:	78%

The Lorenz Building, approved in 1985, accounts for 1,137 or the 1,252 jobs in "not started" commercial projects in the Bethesda CBD pipeline. None of the other "not started" projects has more than 29 jobs.

Bethesda/Chevy Chase

Net Remaining Capacity (jobs):	3,209
Pipeline (9/30/96):	2,638
Jobs in "Not Started" Projects Older than 6 Years:	1,490
Percent of Pipeline Not Started/Older Than 6 Years:	56%

An office building at 5300 Western Avenue, with close to 1,100 jobs, accounts for most of the jobs in "not started" projects older than 6 years. It was approved in 1989. Other larger projects include 200 jobs at the Hughes Medical Institute (1989) and 115 retail jobs in the Sumner project (1986).

Clarksburg

Net Remaining Capacity (jobs):	-775
Pipeline (9/30/96):	4,774

Jobs in "Not Started" Projects Older than 6 Years: 6
Percent of Pipeline Not Started/Older Than 6 Years: >1%
There are virtually no older projects that have not at least started construction in Clarksburg. The largest unbuilt project in Clarksburg is older than 6 years: the Gateway 270 office park still has 3,923 jobs left to construct. It was approved in 1989. However, it is counted as a "started" project because a small portion of the project has been built.

Cloverly
Net Remaining Capacity (jobs): 205
Pipeline (9/30/96): 140
Jobs in "Not Started" Projects Older than 6 Years: 30
Percent of Pipeline Not Started/Older Than 6 Years: 21%
The oldest "not started" project in Cloverly is 1,000 square feet of retail space, accounting for 3 jobs.

Damascus
Net Remaining Capacity (jobs): 13
Pipeline (9/30/96): 143
Jobs in "Not Started" Projects Older than 6 Years: 117
Percent of Pipeline Not Started/Older Than 6 Years: 82%
The largest "not started" projects in Damascus are "The Shops of Main Street," with 69 jobs approved in 1990, and a 12,000 square foot office building (42 jobs) approved in 1986.

Derwood
Net Remaining Capacity (jobs): -703
Pipeline (9/30/96): 2,596
Jobs in "Not Started" Projects Older than 6 Years: 2,095
Percent of Pipeline Not Started/Older Than 6 Years: 81%
Jobs associated with the four "Day Property" approvals account for 1,650 of the jobs in "not started" projects older than six years. These office buildings were all approved in 1990. The other major "not started" project older than 6 years is Srour Center, a 384-job warehouse project also approved in 1990.

Fairland/White Oak
Net Remaining Capacity (jobs): -8,616
Pipeline (9/30/96): 5,849
Jobs in "Not Started" Projects Older than 6 Years: 33
Percent of Pipeline Not Started/Older Than 6 Years: >1%
A substantial portion of the Fairland/White Oak pipeline is considerably older than 6 years, but virtually all of the projects are at least partially built. This includes WestFarm with 4,600 remaining jobs (approved in 1981-82), the Springpointe Executive Center with 595 remaining jobs (approved in 1988), and Randolph Park with 331 remaining jobs (approved in 1985).

Germantown East
Net Remaining Capacity (jobs): 565

Pipeline (9/30/96): 16,205
Jobs in "Not Started" Projects Older than 6 Years: 2,906
Percent of Pipeline Not Started/Older Than 6 Years: 18%
The only substantial "not started" project older than six years is 726,000 square feet (2,874 jobs) of office space on the Bendix Tract, approved in 1989. However, there are 9,708 jobs in six projects approved in 1991 (that is, six years ago). In addition, there are projects older than 6 years in Germantown East that have a substantial amount of jobs left to construct.

Germantown West
Net Remaining Capacity (jobs): 1,653
Pipeline (9/30/96): 14,592
Jobs in "Not Started" Projects Older than 6 Years: 2,684
Percent of Pipeline Not Started/Older Than 6 Years: 18%
There are two major office projects in the Germantown West area that have not started and are older than 6 years. They were approved in 1987 and 1988 and together account for 2,140 jobs. There are some "started" projects in Germantown West with substantial development capacity; some of these are older than 6 years but these created their own capacity by building infrastructure.

Germantown Town Center
Net Remaining Capacity (jobs): 3,739
Pipeline (9/30/96): 3,360
Jobs in "Not Started" Projects Older than 6 Years: 107
Percent of Pipeline Not Started/Older Than 6 Years: 3%
The largest uncompleted project in the Germantown Town Center was approved in 1982 and has 447,000 square feet (1,786 jobs) left to develop. However, it is not considered a "not started" project because a small portion of the project has been built. Most of the few "not started" projects were approved in 1994 and 1995.

Kensington/Wheaton
Net Remaining Capacity (jobs): 2,410
Pipeline (9/30/96): 452
Jobs in "Not Started" Projects Older than 6 Years: 239
Percent of Pipeline Not Started/Older Than 6 Years: 53%
The oldest and largest "not started" project in Kensington/Wheaton is a 15,000 square foot office building with 67 jobs. It was approved in 1983.

Montgomery Village/Airpark
Net Remaining Capacity (jobs): -1,742
Pipeline (9/30/96): 2,834
Jobs in "Not Started" Projects Older than 6 Years: 316
Percent of Pipeline Not Started/Older Than 6 Years: 11%
The bulk of the "not started" projects older than 6 years are associated with the Airpark. The oldest was approved in 1983 for 67 jobs. The largest unstarted project (280 jobs) is exactly six years old; it, too, is associated with the Airpark. Two of the oldest projects are

partially complete: 384,000 square feet (1,100 jobs) of office approved in 1981 and 110,000 square feet (248 jobs) of industrial space approved in 1983.

North Bethesda

Net Remaining Capacity (jobs):	429
Pipeline (9/30/96):	4,932
Jobs in "Not Started" Projects Older than 6 Years:	1,362
Percent of Pipeline Not Started/Older Than 6 Years:	28%

The largest "not started" project in North Bethesda is the 1,000-job Washington Science Center Parcel E, which was approved in 1989. The second largest is a State Highway Administration office building with 267 jobs approved in 1986. Most of the North Bethesda pipeline is Rock Spring Center (3,497 jobs left to construct), approved in 1989, or seven years ago.

North Potomac

Net Remaining Capacity (jobs):	105
Pipeline (9/30/96):	88
Jobs in "Not Started" Projects Older than 6 Years:	20
Percent of Pipeline Not Started/Older Than 6 Years:	23%

All of the "not started" projects approved more than 6 years ago in North Potomac are houses of worship. The rest of the North Potomac pipeline is the partially-complete Giebel property project, with 27,000 square feet (68 jobs) of office space left to construct. It was approved in 1989.

Olney

Net Remaining Capacity (jobs):	1,990
Pipeline (9/30/96):	339
Jobs in "Not Started" Projects Older than 6 Years:	85
Percent of Pipeline Not Started/Older Than 6 Years:	25%

Olney has a relatively small commercial pipeline compared to the overall capacity available. The oldest and largest unstarted project over 6 years old is the James Creek elderly housing project with 70 jobs, which was approved in 1988. There are 106 jobs in Olney in projects that are older than 6 years but are partially complete. The primary one is the 91-job Olney Village Mart II approved in 1987.

Potomac

Net Remaining Capacity (jobs):	2,022
Pipeline (9/30/96):	214
Jobs in "Not Started" Projects Older than 6 Years:	0
Percent of Pipeline Not Started/Older Than 6 Years:	*0%*

None of the "unstarted" projects in Potomac were approved before 1991. The only "started" project in Potomac is a 70-job addition to Montgomery Mall, approved in 1988.

R&D Village

Net Remaining Capacity (jobs):	8,650
Pipeline (9/30/96):	5,785
Jobs in "Not Started" Projects Older than 6 Years:	450
Percent of Pipeline Not Started/Older Than 6 Years:	8%

The largest "not started" project in the R&D Village is the 440-job Decoverly Hall office project, approved in 1989. The other "not started" project consists of 10 jobs approved in 1981. Partially-completed projects older than 6 years are a large part of the R&D Village pipeline: 5,340 jobs in four projects, the youngest of which is eight years old. These include 2,800 jobs in the Life Sciences Center, 2,000 jobs in Decoverly, and about 550 jobs in the Shady Grove Executive Center. (Note: since these figures were developed, 6,000 new jobs were approved in the R&D Village, so the net remaining capacity is now 2,650 jobs).

Shady Grove

Net Remaining Capacity (jobs):	998
Pipeline (9/30/96):	2
Jobs in "Not Started" Projects Older than 6 Years:	0
Percent of Pipeline Not Started/Older Than 6 Years:	0%

The Shady Grove pipeline consists of an auto dealership approved in 1995.

Silver Spring CBD

Net Remaining Capacity (jobs):	3,202
Pipeline (9/30/96):	3,335
Jobs in "Not Started" Projects Older than 6 Years:	194
Percent of Pipeline Not Started/Older Than 6 Years:	6%

The Jordan and Smith Addition (182 jobs, approved in 1990) accounts for virtually all of the projects older than 6 years that have not started in Silver Spring CBD. There is another "not started" project older than 6 years (East-West Plaza); it would result in a net reduction of 75 jobs because the proposed redevelopment has fewer jobs than the current use. City Place is the only "started" project older than 6 years.

Silver Spring/Takoma Park

Net Remaining Capacity (jobs):	630
Pipeline (9/30/96):	894
Jobs in "Not Started" Projects Older than 6 Years:	778
Percent of Pipeline Not Started/Older Than 6 Years:	87%

All but 12 jobs in the Silver Spring/Takoma Park pipeline were approved in 1990 or earlier. The bulk of these have not started. The largest "not started" project is a 79,000 square foot office project (351 jobs) approved in 1985. The oldest is 15,000 square feet (67 jobs) of office, approved in 1977.

Twinbrook

Net Remaining Capacity (jobs):	971
Pipeline (9/30/96):	0
Jobs in "Not Started" Projects Older than 6 Years:	0
Percent of Pipeline Not Started/Older Than 6 Years:	--

Twinbrook has no pipeline.

Wheaton CBD

Net Remaining Capacity (jobs):	2,634
Pipeline (9/30/96):	129

Jobs in "Not Started" Projects Older than 6 Years: 22
Percent of Pipeline Not Started/Older Than 6 Years: 17%
The single "not started" project older than 6 years in Wheaton CBD is a 5,000 square foot Chevy Chase Bank, approved in 1990. There are no partially-completed projects in Wheaton CBD.

White Flint
Net Remaining Capacity (jobs): 2,985
Pipeline (9/30/96): 187
Jobs in "Not Started" Projects Older than 6 Years: 47
Percent of Pipeline Not Started/Older Than 6 Years: 25%
All of the "not started" projects in White Flint are older than 6 years: 23 retail jobs at 5800 Nicholson Lane (approved in 1981) and 24 office jobs approved for Old Georgetowne Village in 1989. The bulk of the approvals in White Flint consist of 140 jobs in the partially-completed Montrose Industrial Park, which was approved in 1982.

Residential Pipeline as of September 30, 1996

Aspen Hill
Net Remaining Capacity (Units): -6,673
Pipeline (9/30/96): 2,200
Units in "Not Started" Projects Older than 6 Years: 1,002
Percent of Pipeline Not Started/Older Than 6 Years: 45%
Leisure World accounts for 959 of the 1,002 units in projects that are older than 6 years and not yet started.

Bethesda CBD
Net Remaining Capacity (Units): 3,200
Pipeline (9/30/96): 223
Units in "Not Started" Projects Older than 6 Years: 200
Percent of Pipeline Not Started/Older Than 6 Years: 90%
The "not started" pipeline older than six years consists of one 200-unit multi-family building.

Bethesda/Chevy Chase
Net Remaining Capacity (Units): 6,816
Pipeline (9/30/96): 922
Jobs in "Not Started" Projects Older than 6 Years: 92
Percent of Pipeline Not Started/Older Than 6 Years: 10%
About half of the "not started" units are in a single development; the rest are primarily in one-unit approvals.

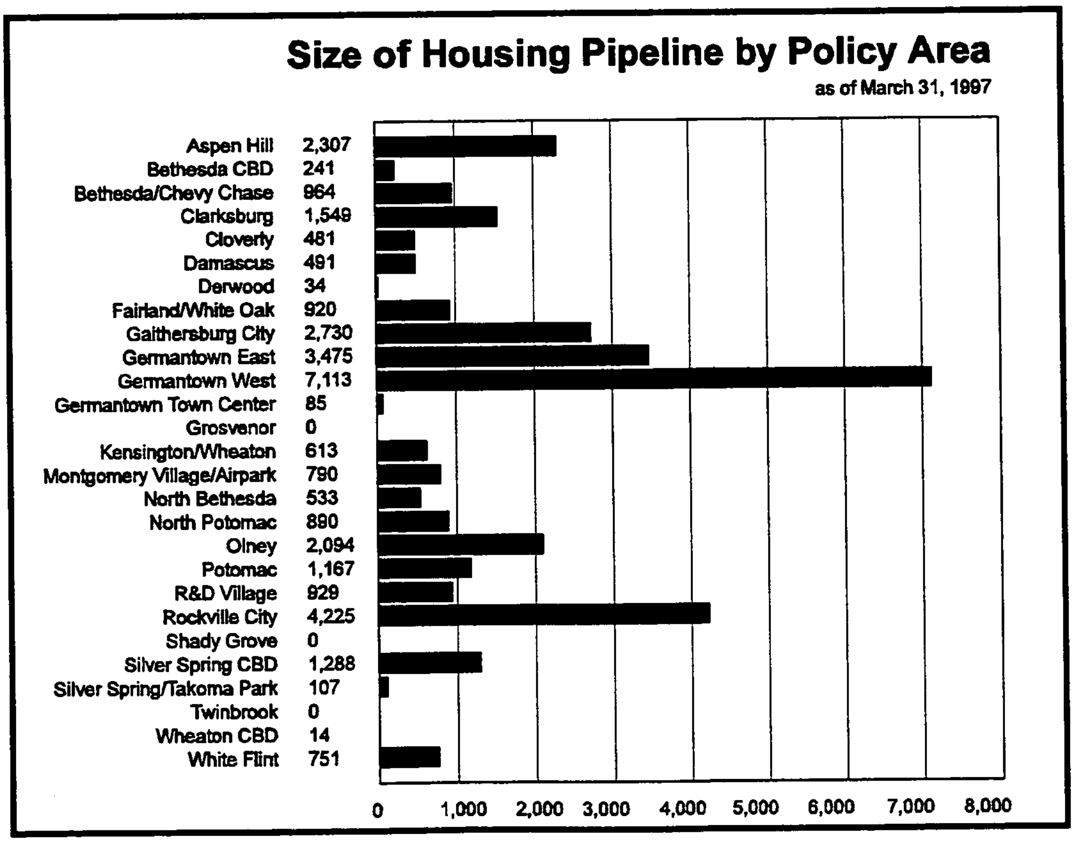
Clarksburg
Net Remaining Capacity (Units): -1,359
Pipeline (9/30/96): 1,545
Units in "Not Started" Projects Older than 6 Years: 18
Percent of Pipeline Not Started/Older Than 6 Years: 1%

The eighteen "not started - older than 6 years" units are in the Clarksburg Heights development.

Cloverly
Net Remaining Capacity (Units): 1,292
Pipeline (9/30/96): 481
Units in "Not Started" Projects Older than 6 Years: 12
Percent of Pipeline Not Started/Older Than 6 Years: 2%
The oldest "not started" project in Cloverly is a single housing unit approved in 1986.

Damascus
Net Remaining Capacity (Units): -1,260
Pipeline (9/30/96): 486
Units in "Not Started" Projects Older than 6 Years: 4
Percent of Pipeline Not Started/Older Than 6 Years: >1%
The oldest "not started" project in Damascus is a single housing unit approved in 1989.

Derwood
Net Remaining Capacity (Units): 875
Pipeline (9/30/96): 34
Units in "Not Started" Projects Older than 6 Years: 16
Percent of Pipeline Not Started/Older Than 6 Years: 47%



The oldest not started project is a one-unit project approved in 1987; the largest is a six-unit subdivision approved in 1989.

Fairland/White Oak

Net Remaining Capacity (Units):	-4,155
Pipeline (9/30/96):	908
Units in "Not Started" Projects Older than 6 Years:	187
Percent of Pipeline Not Started/Older Than 6 Years:	20%

The largest "not started" project in Fairland/white Oak that is older than six years is the 117-unit Liberty Grove project approved in 1988. The next largest is the 24-unit Silverwood development approved in 1985.

Germantown East

Net Remaining Capacity (Units):	1,604
Pipeline (9/30/96):	3,434
Units in "Not Started" Projects Older than 6 Years:	3
Percent of Pipeline Not Started/Older Than 6 Years:	>1%

There are virtually no projects in Germantown East that are "not started" and older than 6 years.

Germantown West

Net Remaining Capacity (Units):	663
Pipeline (9/30/96):	6,806
Units in "Not Started" Projects Older than 6 Years:	3
Percent of Pipeline Not Started/Older Than 6 Years:	>1%

There are virtually no projects in Germantown West that are "not started" and older than 6 years.

Germantown Town Center

Net Remaining Capacity (Units):	1,764
Pipeline (9/30/96):	85
Units in "Not Started" Projects Older than 6 Years:	0
Percent of Pipeline Not Started/Older Than 6 Years:	--

Germantown Town center has not projects that are older than six years and have not yet started. The only project older than 6 years is active and one-third complete.

Grosvenor

Net Remaining Capacity (Units):	1,363
Pipeline (9/30/96):	37
Units in "Not Started" Projects Older than 6 Years:	0
Percent of Pipeline Not Started/Older Than 6 Years:	--

The only project in Grosvenor was approved a year ago: Tuckerman Heights.

Kensington/Wheaton

Net Remaining Capacity (Units):	1,762
Pipeline (9/30/96):	613
Units in "Not Started" Projects Older than 6 Years:	181
Percent of Pipeline Not Started/Older Than 6 Years:	29%

The largest "not started" project in Kensington/Wheaton older than 6 years is a 132-unit project called "Glenmont Mews" approved in 1990.

Montgomery Village/Airpark

Net Remaining Capacity (Units):	-5,170
Pipeline (9/30/96):	790
Units in "Not Started" Projects Older than 6 Years:	9
Percent of Pipeline Not Started/Older Than 6 Years:	1%

The oldest not started project older than 6 years is a four-unit subdivision approved in 1989.

North Bethesda

Net Remaining Capacity (Units):	1,458
Pipeline (9/30/96):	498
Units in "Not Started" Projects Older than 6 Years:	124
Percent of Pipeline Not Started/Older Than 6 Years:	28%

There are two "not started" projects older than 6 years in North Bethesda. One is the 123-unit Tuckerman Lane Senior Living; the other is a single house in Garrett Park.

North Potomac

Net Remaining Capacity (Units):	-1,108
Pipeline (9/30/96):	888
Units in "Not Started" Projects Older than 6 Years:	32
Percent of Pipeline Not Started/Older Than 6 Years:	4%

The largest "not started" project approved more than 6 years ago in North Potomac is the ten-unit Quince Orchard Knolls.

Olney

Net Remaining Capacity (Units):	343
Pipeline (9/30/96):	1,920
Units in "Not Started" Projects Older than 6 Years:	14
Percent of Pipeline Not Started/Older Than 6 Years:	>1%

Most of the few units in "not started" projects older than 6 years were approved in 1989 and consist of 4-unit subdivisions.

Potomac

Net Remaining Capacity (Units):	1,314
Pipeline (9/30/96):	1,140
Units in "Not Started" Projects Older than 6 Years:	25
Percent of Pipeline Not Started/Older Than 6 Years:	2%

All of the "unstarted" projects older than six years in Potomac are small: one to four units.

R&D Village

Net Remaining Capacity (Units):	4,235
Pipeline (9/30/96):	746
Units in "Not Started" Projects Older than 6 Years:	0
Percent of Pipeline Not Started/Older Than 6 Years:	--

There are two residential projects in the R&D Village; both of them are partially complete.

Shady Grove

Net Remaining Capacity (Units):	500
Pipeline (9/30/96):	0
Units in "Not Started" Projects Older than 6 Years:	0
Percent of Pipeline Not Started/Older Than 6 Years:	0%

Shady Grove has no residential pipeline.

Silver Spring CBD

Net Remaining Capacity (Units):	4,835
Pipeline (9/30/96):	1,288
Units in "Not Started" Projects Older than 6 Years:	190
Percent of Pipeline Not Started/Older Than 6 Years:	15%

The 190-unit SIlver Spring Metro Center project is the only "not started" project older than six years in the Silver Spring CBD pipeline.

Silver Spring/Takoma Park

Net Remaining Capacity (Units):	2,363
Pipeline (9/30/96):	107
Units in "Not Started" Projects Older than 6 Years:	33
Percent of Pipeline Not Started/Older Than 6 Years:	31%

The largest "not started" project older than six years is a 20-unit subdivision on the Edwards property, approved in 1990. The oldest is a single unit approved in 1987.

Twinbrook

Net Remaining Capacity (Units):	300
Pipeline (9/30/96):	0
Units in "Not Started" Projects Older than 6 Years:	0
Percent of Pipeline Not Started/Older Than 6 Years:	--

Twinbrook has no pipeline.

Wheaton CBD

Net Remaining Capacity (Units):	1,509
Pipeline (9/30/96):	14
Units in "Not Started" Projects Older than 6 Years:	14
Percent of Pipeline Not Started/Older Than 6 Years:	100%

The single "not started" project older than 6 years in Wheaton CBD is a 14-unit project approved in 1989.

White Flint

Net Remaining Capacity (Units):	949
Pipeline (9/30/96):	751
Units in "Not Started" Projects Older than 6 Years:	0
Percent of Pipeline Not Started/Older Than 6 Years:	--

None of the residential projects in White Flint are older than six years.

Pipeline Removals in the Year 2001

The current 12-year time limit on a finding of adequate public facilities (APF) was set in 1989. Projects approved before that date were also given an additional 12 years to obtain building permits. That means that 2001 will be the first year that projects are removed from the pipeline because their APF has expired. The amount of development that will be removed is considerable.

It cannot be assumed that none of the projects approved in 1989 or earlier will move to construction before their time limit expires, but it is likely that most of them will not. Since staff cannot predict which projects will be built, it can only show which current projects will reach the end of their 12-year limit in 2001.

Potential* Number of Jobs and Housing Units to be Removed from Pipeline in 2001

	JOBS		HOUSING UNTS	
Policy Area Area	Potential # of Jobs Removable	Current Remaining Capacity	Potential # of Units Removable	Current Remaining Capacity
Aspen Hill	14	109	996	-6,667
Bethesda CBD	1,562	4,101	200	3,200
Bethesda/Chevy Chase	1,437	3,209	37	6,816
Clarksburg	3,929	-775	0	-1,359
Cloverly	8	205	6	1,292
Damascus	56	13	2	-1,260
Derwood	521	-703	11	875
Fairland/White Oak	5,831	-8,616	179	-4,155
Germantown East	2,917	560	0	1,604
Germantown West	4,980	1,632	3	663
Germantown Town Ctr	2,688	3,739	0	1,764
Grosvenor	0	80	0	1,363
Kensington/Wheaton	174	2,400	43	1,762
Montgomery Vlg/Airpark	2,059	-1,742	8	-5,170
North Bethesda	4,860	417	124	1,458
North Potomac	73	95	32	-1,108
Olney	187	1,980	9	343
Potomac	0	2,022	22	1,314
R&D Village	5,790	2,650	0	4,235
Shady Grove	0	998	0	500
Silver Spring CBD	358	3,202	0	4,835
Silver Spring/Takoma Pk	802	565	6	2,363
Twinbrook	0	971	0	300
Wheaton CBD	0	2,634	14	1,509
White Flint	187	2,985	0	949
Total:	**38,969**	**34,567**	**1,692**	**36,355**

**Current jobs and housing units remaining to be constructed in projects approved in 1989 or earlier. Housing includes only projects with no completions because partially-completed residential projects have no expiration date.*

Source: M-NCPPC Research and Technology Center, March 31, 1997.

Among the areas that will be most affected are Clarksburg, where a potential 3,949 jobs will be removed; Derwood with 521; Fairland/White Oak with 5,831 (although West*Farm, which accounts for most of the total, will reduce their number of unbuilt jobs by 2001); Germantown East with 2,917 and Germantown West with 4,980. In all, there is a potential that about one-third of the commercial pipeline will see its APF expire in 2001.

On the residential side, the amount of removals is smaller because partially-completed residential projects effectively have no time limit. Because the threshold of "partially-completed" is easier to attain, a larger percentage of these potential removals could remain in the pipeline (approvals consisting of one multi-family building being an exception). Only about 1,700 units fall into this category at present.

After 2001, the number of removals will drop in 2002, but will likely rise significantly in 2003, because a considerable amount of development was approved in 1991.

In areas now in moratorium, the development capacity "recovered" by the County will first be applied to the area's deficit under current procedures. This means that not all of the returned capacity will be available for new approvals.

Staff Comments and Recommendations

An assumption driving the pipeline reform issue has not just been that the pipeline is "clogged" with unmarketable projects but also that there are other, ready-to-go projects that cannot be approved because of existing deficits. This was always a proposition that was impossible to prove. Given the size of the commercial pipeline and the variety of projects within it, it seems likely that the current low level of commercial development in Montgomery County is less due to the characteristics of the existing pipeline than to market or other non-AGP conditions.

This was the basic conclusion of the Planning Board in 1995 and no evidence has surfaced since then to challenge that conclusion.

However, there is less variety on a policy area basis, and prospective employers looking to locate in a particular geographic area will have their options limited by the AGP. Shorter APF time limits might or not increase the number of options available at any one time, but would change the options available more frequently. In addition, it would decrease the waiting time for pending development, giving more potential developers in an area a "crack at the bat."

Given this situation, Park and Planning staff believe there may be merit in further consideration of changing the method of setting APF time limits for future approvals only. Staff believes that subdivision review is an appropriate point to set APF time limits for a projects, and believes that reasonable guidelines can be developed to allow the Planning Board to set an appropriate APF time limit for a project when they are reviewing preliminary plans. Staff's final proposal from 1995 remains its best recommendation for a process for setting APF time limits.

The prospect of large-scale removals from the pipeline due to APF expiration in 2001 has led staff to reconsider the "pipeline discount" approach. Staff's previous reluc-

tance to embrace this approach was based on its rather speculative nature. A discount based upon the expected pipeline removals in 2001, however, is considerably better grounded in reality. Staff is suggesting that the County can with relative safety begin now to release the capacity expected to be recovered in 2001.

Staff suggests that recovered capacity first be allocated to a policy area's deficit, just as it would be under current rules. Recovered capacity in excess of that deficit, however, would be available for new approvals. A review of the chart on page 47 shows that this method would have very little impact on the housing pipeline, but would provide significant additional capacity for non-residential approvals (see box).

As staff envisions it, this would be a one-time discount that would be "paid for" in 2001 when capacity is recovered. Staff does not recommend continously discounting four years into the future; if the County's experience is successful with the limited form of discounting staff is suggesting, then continous discounting may be worth considering.

The fact that the discount would look four years into the future is consistent with the AGP's usual practice of counting capacity that will be available four years from now.

In policy areas such as Fairland/White Oak and Derwood, there would be no practical effect of the discount because the deficit in these areas is larger than the number of potential recovered jobs. However, some areas would come out of moratorium (Clarksburg and Montgomery Village/Airpark), while others would see significant additional capacity. In the main, the I-270 Corridor would see most of the new capacity. This is an area of the County where future job growth is expected and desired.

The risk of this approach is that the County will discount too much and recovered capacity in 2001 will be less than anticipated. Because the County will also see considerable recovered capacity in 1991, staff believes this risk is minimized.

The County is deploying significant resources toward analyzing the factors governing non-residential development. These efforts include a comprehensive inventory of the characteristics of all significant commercially-zoned sites and an analysis of the County's fairly large inventory of under-utilized Class B and C office space. Staff agrees that the products of this work will be very useful.

Effect of Discounting the Jobs Pipeline Using Year 2001 Potential Removals
(Shown are Policy Areas Where Discount Would Have a Major Impact)

Policy Area Area	Potential # of Jobs Removable	Current Remaining Capacity	New Remaining Capacity
Bethesda CBD	1,562	4,101	5,663
Bethesda/Chevy Chase	1,437	3,209	4,646
Clarksburg	3,929	-775	3,154
Derwood	521	-703	-182
Fairland/White Oak	5,831	-8,616	-2,785
Germantown East	2,917	560	3,477
Germantown West	4,980	1,632	6,612
Germantown Town Ctr	2,688	3,739	6,427
Montgomery Vlg/Airpark	2,059	-1,742	317
North Bethesda	4,860	417	5,277
R&D Village	5,790	2,650	8,440
Silver Spring CBD	358	3,202	3,560
Silver Spring/Takoma Pk	802	565	1,367
Total:	**38,969**	**34,567**	**48,940**

Totals reflect counting negative numbers as zero.

Source: M-NCPPC Research and Technology Center, March 31, 1997.

To some extent, the "pipeline reform" issue has been propelled by the assumption that it is the Annual Growth Policy that is a major factor in inhibiting the pace of non-residential development. That assertion has been unprovable as long as non-residential was not occuring elsewhere in the region, either. Now that the office market has improved to the point that some construction activity has returned, it may be easier to determine to what extent local factors affect the pace of development and whether or not these factors can or should be modified by local government action.

Possible Approach for Setting Time Limits for Findings of Adequate Public Facilities

This is a possible process for setting a subdivision's APF time limit. It is based upon Park and Planning staff's last proposal from the 1995 Policy Element. The purpose is to provide a starting point for debate if shorter APF time limits are considered during this policy element.

In this process, every project would receive an APF time limit of not less than six and no more than 12 years. In order to receive a time limit longer than six years, an applicant would have to request the longer time limit at the time of subdivision approval and that request would be subject to the approval of the Planning Board.

In making this request, the applicant would be required to submit a proposed phasing schedule for his project. The primary focus of this phasing schedule would be to set two or more "milestones;" that is, dates by which time an agreed-upon level of progress has been made on a project. The majority of phasing schedules will have two milestones: one milestone by which the project will be substantially started, and another milestone by which the project will be completed. The date of the second milestone, therefore, will be the date of the expiration of the APF approval.

Because there may be projects which logically fall into three or more phases, this proposal does not preclude phasing schedules with more than two milestones. However, the regulatory burden would increase exponentially with the addition of more milestones and for most projects the County's interest in maintaining an active pipeline can be safeguarded with two milestones in the phasing schedule.

What is a milestone? To answer that, let's focus on the first milestone; for most projects this will be the only interim milestone they will face (the other milestone being completion). This milestone should be the minimum conditions needed for clear and convincing evidence that the project has started construction and is on track for completion within its overall APF time limit...in other words, that the project is active.

Milestones based upon building permits (that is, a certain number of building permits acquired by a certain date) would be among the simplest to use. This is in part because building permit is a stage between approval and completion, but it is also because building permits are reviewed by M-NCPPC and therefore can be easily tracked. However, the development community has spoken in favor of other milestones, such as completion of all or part of the base paving of a subdivision's roads. Milestones need not be based upon building permits as long as the Planning Board is satisfied that the milestone is a very strong indicator that the project is active and that the milestone be easily verifiable. Permitting milestones that ensure that developers of inter-dependent projects are not unreasonably delayed or held hostage by his counterpart. For instance if provision of road right-of-way or participation in road construction is a common responsibility, milestones should relate to these events to maintain a sense of order and community-building.

Possible Approach for Setting Time Limits for Findings of Adequate Public Facilities, continued

This process envisions that a developer will be responsible for submitting a statement on or before the milestone date confirming that he has met the milestone. This will assist the County in tracking the activity of the pipeline.

In setting the date for the final milestone (expiration of APF approval), the Board could take into consideration lender requirements for a safety period; that is, allow a certain reasonable length of time for delays.

What if a developer does not meet his initial milestone? This process suggests that if the developer has made substantial progress toward the milestone, he should receive an automatic extension. The definition of "substantial progress" will have to be included in the original phasing schedule. This process envisions automatic extensions of a year to eighteen months. If the project is more than eighteen months behind schedule, the developer would be asked to apply to the Planning Board for a phasing schedule revision.

A revision to a phasing schedule is needed when it becomes clear that the original phasing schedule will not be met. Generally speaking, a revision to a phasing schedule will only be necessary when a project is unable to provide the minimum evidence that the project has started and is on track for completion. A developer will submit his complete application for a revised phasing schedule to the Planning Board either a) prior to the milestone date or b) if there was an automatic extension, prior to the expiration of the automatic extension.

The Planning Board will grant the applicant's request only if all of the following conditions are true:

a. the applicant has been delayed for reasons beyond the applicant's control;
b. the applicant has initiated substantial construction of the project or the infrastructure needed to support the project;
c. the new phasing schedule the applicant proposes is expeditious and does not extend beyond twelve years; and
d. the new phasing schedule in the public interest.

This process does not consider that "market conditions" are a sufficient reasons to satisfy condition (a). For condition (b), the term "infrastructure" should be limited to physical improvements and not include other costs, such as land dedications.

As for condition (d), this process suggests that the public interest is served when the public's investment in private development through publicly-funded infrastructure is repaid by the addition of the completed project to the tax rolls and to the economic fabric of the County. A revised phasing schedule is in the public interest if the Board is convinced that a revised phasing schedule will result in a completed project.

As mentioned, this process envisions "automatic extensions" which would go into effect if a project was unable to meet an interim milestone, but had made sub

Possible Approach for Setting Time Limits for Findings of Adequate Public Facilities, continued

stantial progress toward meeting that milestone. In a similar vein, this process suggests that projects with phasing schedules which are approaching the end of their APF time limit, and which will not be able to complete their project before the deadline despite substantial progress, be eligible for an extension on their overall APF time limit.

An extension of an APF time limit should be subject to the approval of the Planning Board. It should be for no more than three years and should be limited to a reasonable amount of time to complete the project. A developer would be required to submit a complete application for an APF time limit extension to the Board prior to the expiration of his APF time limit. Among the criteria the Board would use as a basis for evaluating the developer's request: whether the developer had made substantial progress toward completion of his project and whether the developer is actively engaged in the completion of his project and whether the project can be completed if the extension is granted. A project with a nine-year APF time limit, for example, might be permitted an additional year to finish up.

This proposal would potentially allow a project that originally received a twelve-year limit up to fifteen years total. Certainly the objective of pipeline reform is to shorten APF time limits overall, but there will be occasions when the public interest is best served by allowing private projects supported with public infrastructure the opportunity to be completed, even if it requires the extension of an APF time limit.

Possible Approach for Allowing the Transfer of Staging Ceiling from One Project to Another

Allowing the transfer of development capacity from one project to another is also a means for addressing the current pipeline situation.

The Annual Growth Policy provides options for applications which exceed the Policy Area staging ceiling to receive preliminary plan approval. To take advantage of these options, the developer must commit to fully mitigating the traffic impacts of the project. Currently, there are three types of staging ceiling flexibility for Policy Area Transportation Review:

* Full-cost developer participation; and
* Development district participation.

All three types enable a preliminary plan to pass Policy Area Transportation Review, and also require the plan to pass all other public facilities tests including Local Area Transportation Review.

Transferable staging ceiling would be another type of staging ceiling flexibility, similar in many respects to full-cost developer participation, except that the developer has the option of obtaining capacity by purchasing it from another project in the pipeline. As with full-cost developer participation, a developer taking advantage of transferable staging ceiling would still have to submit a preliminary plan to the Planning Board for approval and would still have to pass Local Area Transportation Review (LATR) tests. For LATR, the developer would be required to mitigate the traffic impact of his project on local roads so that congestion would be no worse than it would have been if the original project had been developed.

Transferable capacity would be permitted only between projects within the same policy area. Transfers of jobs to jobs and housing to housing would be relatively simple to accomplish. Transfers of jobs to housing would also be possible, but would require additional evaluation by staff, depending on the characteristics of the policy area. This process does not include permitting transfers from housing to jobs.

Transferable capacity would allow projects that wish to move forward to do so without additional expenditures by the County. It improves the viability of the pipeline by providing incentives for projects that are not feasible to be replaced by those that are. Projects would undergo the same review as they do currently, and capacity transfers could be limited to similar-type projects. And unlike the discount approach, the pipeline as used for calculating Net Remaining Capacity would continue to contain the entire amount of approved development.

Other provisions of this "sample" Transferable Staging Ceiling option would include:

Upon the transfer of staging ceiling from one project to another, the original holder of the staging ceiling would be removed from the pipeline and documenta

Possible Approach for Allowing the Transfer of Staging Ceiling from One Project to Another, continued

tion recorded to reflect the need for APF review and approval in the future before development may occur.

The original project could be resubmitted to the Planning Board for subdivision approval, and, upon a finding of adequate public facilities, could be reinstated into the pipeline of approved development.

The original holder of the staging ceiling would be able to transfer all or part of his staging ceiling to another project. If only a portion of the staging ceiling is transferred, the balance of the staging ceiling would remain with the original holder until the expiration of the original project's development approval. For partially completed projects in the pipeline of approved development, only that portion of the staging ceiling for which construction has not yet begun would be transferable.

Currently, the staging ceiling associated with certain existing buildings can be used by the owner if he decides to replace that building with a new one. For example, the Caldor Department store in Silver Spring received a credit for the jobs in the building replaced. The are also some limited examples of buildings which have already been demolished and where the owners of those sites may claim a credit for the previous building when they construct a new one. This process allows this capacity to be transferable as well.

Conversion of a non-residential building to a residential one would be permitted under this proposal; it is essentially a transfer between two projects on the same site. The number of housing units a project could build for each job would vary, depending on the policy area.

The question of development capacity used by existing but vacant buildings is a tricky but important one. Currently, if the building is occupiable without any renovation required or other approvals or permits needed (other than use and occupancy permits) and the County cannot be certain that it won't be occupied in the future, the AGP reserves development capacity for that building. From a transportation adequacy point of view this is the safest approach, but when desired new development cannot be approved in an area where substantial capacity is being used by vacant (and unlikely to be occupied) buildings, other approaches become more attractive.

This proposal would allow the transfer of staging ceiling from vacant buildings after they are demolished. However, the County could allow the transfer of development capacity from an existing building without requiring it to be demolished as long as the owner agrees to a restraint on the occupation of that building until capacity is available. Building owners currently have agreements with the Planning Board limiting the number of employees in a particular building.

A developer of a project would be allowed to provide some or all of the staging ceiling needed for his project through the transferable capacity option. If there is

Possible Approach for Allowing the Transfer of Staging Ceiling from One Project to Another, continued

some net remaining capacity available, but it isn't enough for the project at the head of the queue to receive subdivision approval, the developer of that project would also be able to provide the remaining staging ceiling required through the transferable staging ceiling option.

All transfers of staging ceiling would be reported by the Planning Department as part of the periodic pipeline reports. Transfers of staging ceiling would be reviewed by the Planning Board at the time of subdivision approval of projects using transferred staging ceiling.

One concern is that some people may seek an APF approval simply to obtain staging ceiling that they can then sell. A remedy is that staging ceiling transfers could be limited to projects which entered the pipeline of approved development prior to a certain date, such as November 1, 1997. This would mean that future approvals might be able to buy transferable staging ceiling, but would not be able to sell it. If reduced time limits for new approvals are enacted, however, transferable staging ceiling will be needed less and less as time goes by.

This process doesn't envision that staging ceiling acquired through the Special Ceiling Allocations for Affordable Housing and Health Care Facilities [section (I)(A)(1)(c)], staging ceiling obtained through the Alternative Review Procedure for Limited Residential Development, or staging ceiling associated with loophole properties, be transferable. Alternatively, this process does envision permitting the staging ceiling acquired through the staging ceiling flexibility for developer participation provisions of the Annual Growth Policy to be transferable as long as the off-site transportation improvement or traffic mitigation conditions are met, either by the developer of the original project or by the developer of the project receiving transferred staging ceiling.

Because purchase of another project's staging ceiling might be cheaper than constructing facilities, owners of projects in the pipeline of approved development that received subdivision approval through the staging ceiling flexibility for developer participation projects provisions of the Annual Growth Policy [section (I)(A)(1)(d)] could remove those projects from the pipeline of approved development and resubmit them for subdivision approval using transferred staging ceiling. However, staff recommends that a project approved because of the capacity created by a traffic mitigation program not be able to cancel the program in favor of transferred staging ceiling because of the negative impact this would have on commuters currently using the program.

Possible AGP Language

(I)(A)(1)(e)Staging Ceiling Transferability

(i) Staging Ceiling Transferability allows the Planning Board to permit the voluntary transfer of staging ceiling from a project in the pipeline of approved develop

Possible Approach for Allowing the Transfer of Staging Ceiling from One Project to Another, continued

ment to a project in the queue of pending development. This transfer must be between projects within the same policy area and may be of the following types: jobs to jobs, housing to housing, or jobs to housing. A transfer agreement must be executed between transferer, transferee, the Montgomery County Planning Board and the Montgomery County Department of Transportation. In the transfer agreement, the original holder of the staging ceiling capacity forfeits the finding of adequate public facilities for his project. The project of the original holder is consequently removed from the pipeline of approved development, any building permits issued for this project shall be cancelled by the Executive, and the project must receive adequate public facilities approval before development occurs.

(ii) The original project may subsequently be resubmitted to the Planning Board for subdivision approval, and, upon a finding of adequate public facilities, may be reinstated into the pipeline of approved development.

(iii) The original holder of the staging ceiling may transfer all or part of his staging ceiling to another project. If only a portion of the staging ceiling is transferred, the balance of the staging ceiling remains with the original holder until the expiration of the original project's development approval. For partially completed projects in the pipeline of approved development, only that portion of the staging ceiling for which construction has not yet begun may be transferred.

(iv) The expiration date of staging ceiling transferred from one project to another does not change as a result of the transfer.

(v) The owner of an existing building that is readily capable of supporting uses that generate trips without significant renovation and from which no trip credits have already been transferred, or the owner of a building which has been demolished but for which the landowner has a staging ceiling credit, may transfer the staging ceiling associated with this building under the provisions of this section. The owner must apply for and receive from the Planning Board certification of the staging ceiling associated with the building. The owner may not transfer the staging ceiling associated with an existing building until the building is demolished, except in the following case:

The owner of an existing non-residential building who wishes to convert that building to residential use may convert the jobs capacity associated with that building to residential capacity at a ratio to be determined by the Planning Board.

(vi) The developer of a project in the queue of pending development may elect to provide 100 percent of the staging ceiling needed for his project through the transferable capacity option. Alternatively, if there is net remaining capacity available, but it is insufficient for a project at the head of the queue to receive subdivision approval, the developer of that project may elect to provide the remaining staging ceiling required through the transferable staging ceiling option.

Possible Approach for Allowing the Transfer of Staging Ceiling from One Project to Another, continued

(vii) All transfers of staging ceiling will be recorded by the Planning Board and filed with the Executive. Transfers of staging ceiling are subject to the approval of the Planning Board and will be reviewed by the Planning Board at the time of subdivision approval of projects using transferred staging ceiling.

(viii) In the case of transfers of ceiling from non-residential projects to residential projects, the Planning Department staff will recommend, subject to the Planning Board's approval at the time of subdivision approval, the appropiate jobs-to-housing ratio for staging ceiling transfers within the policy area where the subdivision requesting the transfer is located.

(ix) Staging ceiling may be transferred from projects which have been in the pipeline of approved development prior to [the effective date of this amendment]. A project receiving transferred staging ceiling in the Silver Spring CBD Policy Area shall meet the requirements of section (I)(A)(1)(b) of this Annual Growth Policy.

(x) Staging ceiling acquired through the Special Ceiling Allocations for Affordable Housing and Health Care Facilities (I)(A)(1)(c) may not be transferred. The staging ceiling associated with projects approved prior to January 1, 1982 or under the Alternative Review Procedure for Limited Residential Development may not be transferred.

(xi) Projects in the pipeline of approved development that received subdivision approval through the staging ceiling flexibility for developer participation provisions of the Annual Growth Policy (I)(A)(1)(d) may be removed from the pipeline of approved development and resubmitted for subdivision approval using transferred staging ceiling, except for those projects required to implement a traffic mitigation program.

(xii) Staging ceiling acquired through the staging ceiling flexibility for developer participation provisions of the Annual Growth Policy may be transferred as long as the off-site transportation improvement conditions are met, either by the developer of the original project or by the developer of the project receiving transferred staging ceiling.

Issue Six

Alternative Review Procedure for Metro Station Policy Areas

The Alternative Review Procedure for Metro Station Policy Areas allows development to meet its Local Area Transportation Review conditions by paying the Development Approval Payment, joining a transportation management organization, and making its best effort to meet mode share goals set by the Planning Board. The procedure is currently available in Bethesda CBD, Grosvenor, White Flint and Twinbrook. The procedure is not available in the Metro station policy areas of Wheaton CBD and Shady Grove because there are no TMOs serving those areas. Completion of a comprehensive local area transportation review by Park and Planning staff is also a pre-condition for use of this Alternative Review Procedure.

In the FY97 Annual Growth Policy, the County Council directed

> "The Planning Board, with the aid of the Executive, [to] conduct the Comprehensive Local Area Transportation Reviews necessary to allow the Alternative Review Procedure for Metro Station Policy Areas to be used in the Shady Grove, Friendship Heights, and Glenmont Policy Areas. The Council may later decide not to require this review in a policy area if there are no plans to develop a transportation management organization in the area or if the analysis cannot be scheduled in the Planning Board's work program."

In October, the Montgomery County Department of Public Works and Transportation (DPWT) advised Park and Planning staff by letter that it did not plan to pursue TMOs in Friendship Heights or Glenmont at this time. DPWT cited four "precursors or conditions that must be in place before we can successfully establish a TMO in a community. There needs to be:

> a concentration of employment in a defined area;
>
> a recognition of common transportation problems;
>
> a private sector individual to lead or champion the effort; and
>
> a group of businesses, employers, developers, and individuals who see benefits to creating a TMO."

DPWT noted that "In each of the Metro Policy Areas --- Shady Grove, Friendship Heights, and Glenmont --- we do not see all or even most of these conditions being met." In reference to Shady Grove specifically, DPWT requested that Park and Planning staff

clarify its expectations for the TMO in this area, including management organization, boundaries, and initial services.

Park and Planning staff responded that it has no particular preference regarding the management structure but noted that a joint public/private approach similar to North Bethesda may be the most desirable in the long run -- when the TMO's value to developers and employers is more apparent. Staff recommended that the TMO boundaries follow those of the Shady Grove Study Area Master Plan of 1990 and include new development in Rockville and Gaithersburg. These boundaries would include the Shady Grove Policy Area and the R&D Village Policy Area. Staff also recommended that an initial program of services include ride share matching, access to an emergency ride home program, information and marketing, bus service expansion as described in the Interim Transit Plan (one new bus route for every 2,000 employees), and monitoring.

Park and Planning staff's understanding is that DPWT is moving forward with plans for the Shady Grove TMO, but have not decided on the organization, programs, or funding for it at this time.

Since DPWT does not plan to move forward with a TMO for either Friendship Heights or Glenmont, comprehensive local area transportation reviews (CLATR) for these areas are not included in the work program at this time. The CLATR for Shady Grove is in the Park and Planning work program and will be completed over the summer with Planning Board review in the fall. Although no dates for the creation of the Shady Grove TMO has been set, Park and Planning staff are confident that the CLATR will be completed in time.

The purpose of the CLATR is to identify the transportation system improvements that will be needed to support the expected initial phase of development. Once the TMO is created and development is approved in Shady Grove under the Alternative Review Procedure for Metro Station Policy Areas, the results of the CLATR will be used to recommend transportation improvements to be funded with development approval payment revenues.

Alternative Review Procedures for Limited Residential Development

The Park and Planning Staff believe the Alternative Review Procedure for Limited Residential Development is not functioning as a stimulus to housing construction but rather acts as a limited "escape valve" for some types of development in moratorium areas. This may be a useful function, but it is not what was intended.

Staff's final recommendation on whether the Alternative Review Procedure for Limited Residential Development should be retained depends on the assessment by the Department of Public Works and Transportation, which will be available May 1. Staff believes the difficulty in programming transportation improvements with DAP revenues is the basic potential objection to continuing the Procedure.

Staff also suggests that if the Procedure is retained, there are changes which should be considered for both the Procedure and in how the Procedure is administered. These will not address all of the Procedure's shortcomings, but will improve it.

Finally, staff does not recommend that large-lot residential development in Fairland/White Oak proceed ahead of transportation improvements, even though the construction of such development is a goal of the Fairland Master Plan.

Summary of Issue

The Annual Growth Policy is to assess whether the County should continue with the Alternative Review Procedure for Limited Residential Development. This procedure allows development in areas that are otherwise in moratorium if the developer pays the development approval payment (DAP). The DAP is paid at building permit; DAP funds are to be used to make transportation improvements to support the approved development. The Alternative Review Procedure is scheduled to sunset at the end of FY98.

The specific questions asked by the County Council are:

Alternative Review Procedure for Limited Residential Development - The Planning Board, with the aid of the Executive, must review the effectiveness of this procedure, including the amount, type, and location of approvals, the amount of funds generated from the Development Approval Payment, and an assessment of whether the funding is sufficient to meet transportation needs generated by development approved under the procedure. The Board must also recommend whether the procedure should be extended and whether there should be a different Development Approval Payment.

Summary of the Alternative Review Procedure

The goal of the Alternative Review Procedure, added to the AGP in FY94, is to encourage residential development by allowing developers to meet their public facilities requirements by paying a fee to the County rather than constructing the transportation infrastructure that the AGP tests would otherwise require of them.

The AGP has two transportation tests to determine the adequacy of transportation facilities. The first divides the County into "policy areas" and measures the average level of transportation service in each area. This test is called Policy Area Transportation Review (PATR). The second test, Local Area Transportation Review (LATR), determines if the traffic generated by proposed development will exceed the maximum congestion level set for nearby intersections. When the result of either test shows that the level of service is (or will be) below standard, the proposed development is not allowed to be built.

In areas without sufficient infrastructure to support new development, developers have alternatives. They can wait until the government builds the new transportation facilities needed to serve the transportation needs of the proposed development, they can build enough facilities so that their development project does not make the area's transportation service any worse, they can mitigate the traffic that exceeds congestion levels, or in certain cases, they can take advantage of the alternative review procedures.

Calculating the Development Approval Payment

Type of Development	DAP (per square ft)
Non-Residential Buildings	
Owned by non-profit organization for direct provision of charitable services	*$1.00*
Industrial, warehouse, R&D, and non-profit offices	*$2.40*
Any other non-residential building	*$4.00*
Residential Buildings	
Multi-family or addition	*$3.00*
Single-family or add'n (incl townhomes)	*$3.75*
Minimum payment for multi-family (per unit)	*$1,200*
Minimum payment for single-family (per unit)	*$1,500*

The DAP is calculated by multiplying the above rates by the building's gross floor area (GFA). The first 1,200 square feet are exempt. GFA also does not include:

- unfinished basement or attic area with a clear height of less than 7'6".
- interior amenity space required to obtain approval of a site plan.
- area occupied by an atrium or other multi-storied space other than the first floor of the space.
- mechanical spaces and parking garages.
- in single-family residential buildings only, the GFA does not include 50% of any finished or unfinished basement or attic area with a clear height of less than 7'6".

The DAP is set by County Council bill 31-93 which modified the County Code (Chapter 8, Article V, Sections 8-37 through 8-42). Please obtain a copy of the code or legislation for complete details.

The Alternative Review Procedure for Limited Residential Development permits up to 300 housing units to be approved in policy areas in moratorium annually through fiscal year 1998. The developers meet their PATR and LATR

conditions by paying a fee. The fee is called the Development Approval Payment. The amount of the DAP was set by County Council legislation in 1994 (see box).

The Alternative Review Procedure for Limited Residential Development permits residential development to proceed in policy areas that are otherwise in moratorium for new housing subdivision approvals. In exchange for being released from the roadway improvement obligations of Policy Area Transportation Review and Local Area Transportation Review, the developer voluntarily agrees to make a payment to the County based upon the square footage of the housing units he intends to construct. The payment is made at the time of building permit.

Summary of Housing Units Approved Under the Alternative Review Procedure

Policy Area	Projects	Units
Cloverly	7	273
Germantown West	4	280
Damascus	6	123
Olney	4	112
North Potomac	5	73
Clarksburg	1	39
Aspen Hill	3	12
Fairland/White Oak	2	4
Germantown East	1	4
Total	**33**	**920**

Source: M-NCPPC

This alternative review procedure is intended as a temporary stimulus for residential development and is limited in scope and duration. No more than 300 housing units may be approved under the procedure in any one fiscal year, nor can more than 100 units with the same landowner at the same location be approved. The procedure is not available in Montgomery Village/Airpark, Fairland/White Oak or Aspen Hill, due to the seriousness of the traffic congestion in those areas. The procedure is scheduled to sunset July 14, 1998 (AGP fiscal years begin on the fifteenth of July).

Development Approved Under the Alternative Review Procedure

Between July, 1993 (when the procedure first went into effect) and February 21, 1997, thirty-three development projects totalling 920 housing units have taken advantage of the Alternative Review Procedure for Limited Residential Development. Cloverly, Germantown West, Damascus and Olney are the policy areas that have seen more than 100 units approved under the procedure.

The 920 total includes 16 units that were not "strictly" approved under the alternative review procedure. These are former outlots created under the old *de minimis* rule. The *de minimis* rule was changed in 1995 to

DAP Revenues by Subdivision

Subdivision	Permits	Unit Type	Avg Payment	Total Payment
Llewellyn Fields	28	SFD	$10,092	$282,595
Germantown Station	32	TH	$2,587	$82,802
Olney Oaks	4	SFD	$11,094	$44,378
Phillips Oaks	2	SFD	$10,092	$20,406
Hampshire Greens	3	SFD	$8,694	$26,083
Total	**69**		**$6,612**	**$456,264**

Source: Montgomery Co. Department of Permitting Services as of 12/18/96. Llewellyn Fields is reported to have made 2 additional payments since then.

SFD = single family detached; TH = townhouse.

allow these outlots to pass APF if the developer agreed to pay the development approval payment for the units.

The 920 total does not include units that were approved under the procedure but which were later re-approved under a different procedure. These "undapped" projects include two whole projects totalling 20 units and 40 units of another 70-unit project, which were originally approved under the procedure in Cloverly. When additional staging ceiling was added to Cloverly for FY96 due to the programming of Norbeck Road Extended, these projects were re-approved using some of that capacity.

Estimated Potential Future DAP Revenues of Currently-Approved Subdivisions

Policy Area	Units	Revenue
Aspen Hill	12	$120,000
Clarksburg	39	$390,000
Cloverly	240	$2,400,000
Damascus	123	$1,230,000
Fairland/White Oak	4	$40,000
Germantown East	4	$40,000
Germantown West	248	$1,992,500
North Potomac	73	$73,000
Olney	108	$1,080,000
Total	**851**	**$10,015,000**

Average DAP payment applied to remaining housing units by type. Source: M-NCPPC, MC DPS

Another project currently approved under the alternative review procedure may also change its status. The King/Hargett subdivision in Germantown West, approved for 100 units, is part of a proposed, but not yet approved, development district.

Two-thirds of the 920 units were approved in 1994. Since then, approvals have averaged 160 units per year until FY97, when the number of units removed by developers from the program (60) nearly equalled those added (94). If the 100 King/Hargett units are removed, the total at the end of FY97 will be 820, or 66 fewer units than at the beginning of the fiscal year.

Review of Permits/Money Collected

According to the Department of Permitting Services, sixty-nine building permits have been issued for housing units approved under the alternative review procedures. The resulting development approval payment revenues total $456,264.00. DPS's data is as of December 18, 1996.

Development approval payment revenues totalled about $180,000 in FY95, about $150,000 for FY96 and about $127,000 for FY97.

To get a rough estimate of the potential revenues from the development approval payment, an average DAP payment of $10,000 for single family detached houses and an average payment of $2,500 for townhouses was applied to the approved projects which have not yet received building permits. The estimate resulting from this method is just over $10 million.

This estimate is rough because the DAP is calculated based upon housing unit size. Housing units yet to be built may be smaller than those built thus far. In addition, the developers of some of these units may decide not to proceed with their projects or to seek re-approval under a different AGP procedure, such as development districts. In addition, impact taxes, where they are in effect, are credited against the DAP.

However, the estimate does provide something of an "upper limit" to the amount of revenues than can be expected from development already approved, which can be compared to cost estimates for transportation improvements needed to support development approved under the procedure.

Transportation Improvements

There is no legislative requirement that revenues from the development approval payment be spent on transportation improvements needed to support development approved under the procedure. However, the County has signalled its intention to do so to the extent possible in several ways: by requiring the Planning Board to annually identify the list of transportation improvements that would have been required of the development projects had they been approved under other AGP procedures, and by including in the Capital Improvements Program a project description form to collect DAP revenues and apply them to transportation improvements to support approved development. The County Department of Public Works and Transportation is the agency which evaluates and programs these transportation alternatives for the Council's review.

Planning Staff Recommendations

The Planning Board annually reviews the transportation needs of the policy areas in which subdivisions have been approved under the Alternative Review Procedure. The Planning Board also reviews the Local Area Transportation Review conditions the subdivisions would have been required to make had they been approved under regular procedures.

Based upon the Board's previous recommendations and staff's analysis of recently-approved development, the staff has identified transportation improvements it recommends for funding with the proceeds of the Development Approval Payment. The recommended transportation improvements are identified as to whether they provide additional staging ceiling (Policy Area Transportation Review) or additional capacity at local intersections (Local Area Transportation Review).

The staff's recommendations build upon the Planning Board's recommendations in the Final Draft FY97 AGP Ceiling Element. At that time, 886 units had been approved under the procedure; the total is now 920, for a net gain of 34 units. Therefore, the transportation recommendations are very similar to last year's. None of the Board's recommendations have been programmed, although a "placeholder" project was added to the capital improvements program to collect DAP revenues and, ultimately, program transportation improvements.

It is important to note that the public sector has committed funds in the policy areas where projects have been approved under the Alternative Review Procedure. In FY96, the state's widening of MD355 added 1500 housing units and 500 jobs to Germantown East. County-funded improvements to MD118, Clopper Road and MD118 Relocated the same year added 250 jobs and 1,000 housing units to Germantown West. Norbeck Road Extended, counted for the

first time in FY97, added 1,500 housing units in Cloverly and added 500 housing units and 250 jobs in Olney. Together, these projects represent a cost of about $62 million.

The Planning Board has recognized that DAP revenues alone will not be sufficient to pay for the improvements it has recommended. However, a number of the Board's recommended staging ceiling improvements will also provide more transportation capacity than is needed by the DAP-paying subdivision(s), capacity which can be used toward decreasing the policy areas capacity deficits and possibly provide some capacity for additional development.

Consequently, the recommendations for PATR aren't primarily concerned with providing a match between the capacity needed by the subdivisions and the capacity provided by the recommended improvement. Rather, the Board has previously considered contributions toward a policy area's most-needed transportation projects an appropriate use of DAP revenues, even when those revenues would only fund a portion of the project's total cost. Park and Planning staff's recommendations below continue that practice.

Conversely, for Local Area Transportation Review recommendations, the Board has previously made every attempt to identify intersection improvements that would just satisfy the capacity needed by the approved subdivision(s). Park and Planning staff's recommendations below continue that practice.

Cloverly Policy Area

Seven preliminary plans, totaling 273 units, have been approved. This is a reduction of 111 units from last year. The Park and Planning staff supports the following uses for the DAP revenues:

Staging Ceiling: The staff recommends that the DAP revenues be contributed towards the future facilities planning project for a transit center. The Board's analysis assumes construction of the State Highway Administrations MD 28 Extended project (CTP Project 153305) and MCDPWT's Norbeck Road Extended project (CIP project 933121). Norbeck Road Extended will provide an alternative east-west route for traffic instead of Ednor and Norwood Roads.

Intersection Congestion: For local area transportation review (LATR), the Board recommends improvements at the following intersections: New Hampshire Avenue (MD 650) and Ednor Road, Norwood Road and Ednor-Layhill Roads, and Norbeck Road (MD 28) and Layhill Road (MD 182).

Safety: The additional intersection congestion caused by the Peach Orchard Estates and Allnutt Property projects is not sufficient to require capacity improvements; however, the Planning Board recommends that DAP revenues be used to fund the following safety improvements: 1) provide a right-turn lane from northbound Peach Orchard Road onto eastbound Spencerville Road and possibly provide a left-turn storage lane from eastbound Spencerville Road onto southbound Peach Orchard Road; 2) Upgrade Peach Orchard Road within the available right-of-way to improve sight distance by removing the hills and curves

and removing physical obstacles, especially at the cross streets such as Seibel Drive and Thompson Road; and 3) Improve pedestrian access and safety along Thompson Road to Briggs Chaney Middle School, especially crossing Peach Orchard Road, although sidewalks may not be possible due to environmental constraints. For the Stonegate and South Stonegate projects, the Board recommends that DAP funds be used to address the cut-through traffic issues identified by the community, possibly to include speed humps or other traffic-calming measures.

Germantown East Policy Area

One preliminary plan, totalling 4 units, has been approved. There has been no change since last year. Germantown East is no longer is moratorium for new housing. In addition, all of the development project's nearby intersections meet their congestion standards. Therefore, the Park and Planning staff is not recommending any improvements at this time.

Germantown West Policy Area

Four preliminary plans, totaling 280 units, have been approved. There has been no change since last year. The Park and Planning staff supports the following uses for the DAP revenues:

Staging Ceiling: The Park and Planning staff recommends that the DAP revenues fund the widening of Father Hurley Boulevard north of A-254 to Wisteria Drive, contribute towards a future SHA project to widen Clopper Road (MD117) west of MD118 to A-297, contribute funds toward the proposed park and ride lot on Clopper Road between MD118 and Great Seneca Highway, and/or contribute toward the Germantown transit center which has completed facilities planning review.

Intersection Congestion: The Park and Planning staff recommends an intersection improvement at MD 118 and Aircraft Drive. Last year, staff also recommended an improvement at MD118 and MD117; that improvement has been programmed by the County in the MD118 Relocated CIP project.

Olney Policy Area

Four preliminary plans, totaling 112 housing units, have been approved. This is a small increase from last year's total of three plans and 110 units. The Park and Planning staff supports the following uses for the DAP revenues:

Staging Ceiling: The Park and Planning staff recommends that the DAP revenues contribute to the future facilities planning project for a transit center. This analysis assumes construction of the State Highway Administrations MD 28 Extended project (CTP Project 153305) and MCDPWT's Norbeck Road Extended project (CIP project 933121). Although not within the Olney Policy Area, this road will provide an alternative east-west route for traffic currently

congesting MD 108. Thus traffic on MD108 and through the Olney Policy Area will be reduced.

Safety: Although not a capacity improvement to satisfy adequate public facilities review requirements, the Park and Planning staff recommends the funding of highway spot improvements or a facility planning project for safety improvements along Emory Lane between Muncaster Mill Road (MD 115) and Cashell Road especially at Holly Ridge Road, Pinetree Road, and other hazardous locations.

Intersection Congestion: For LATR, the Park and Planning staff notes that there are no feasible intersection improvements within the Olney Policy Area. Along Georgia Avenue, all major intersections from Norbeck Road to MD 108 are not satisfying congestion standards because of traffic generated by approved but unbuilt developments. However, any feasible improvements at these intersections have been required of previously approved subdivisions to mitigate the impact of their site-generated traffic. Georgia Avenue was widened to four lanes several years ago. The state has recently widened MD 108 to four lanes. The major intersections that were failing now operate within the LATR congestion standard.

Damascus Policy Area

Six preliminary plans totalling 123 units have been approved, an increase from last year at this time, when four preliminary plans, totaling 82 housing units, had been approved. A project for staging ceiling would be Phase II of MD124 Extension (A-12). This will extend MD124 from the intersection of MD 108/MD 124 to north of MD 27 as an alternative route around the Damascus business area. Intersections along MD124 affected by the approved projects are operating within congestion standards.

North Potomac Policy Area

Five preliminary plans, totaling 73 housing units, have been approved., an increase from 3 plans totalling 26 units last year. When sufficient funds have accumulated, a project to increase staging ceiling in North Potomac would be to widen MD28 from Treworthy Road to Quince Orchard Road.

Effect of the Alternative Review Procedures on Affordable Housing Production

Until the Alternative Review Procedure for Limited Residential Development, the Special Ceiling Allocation for Affordable Housing was the main alternative for development in areas in housing moratoria. Since 1988,

3,257 affordable housing units have approved under the Special Ceiling Allocation.

The rationale behind the Special Ceiling Allocation for Affordable Housing is that growth controls may have the effect of increasing the cost of the housing that is produced. To help mitigate this effect, the Special Ceiling Allocation for Affordable Housing allows residential development in moratorium areas if a certain percentage is devoted to affordable housing.

Since the passage of the Alternative Review Procedure for Limited Residential Development (July 15, 1993), approvals under the Special Ceiling Allocation have come to a virtual halt. The only approval since the passage occurred in Aspen Hill (60 units, of which 12 are below market rate). Aspen Hill is one of the areas where the Alternative Review Procedure does not apply.

At the work sessions on the legislation to establish the Development Approval Payment, there was discussion about allocating a portion of DAP revenues to the Montgomery Housing Initiative because of the Alternative Review Procedure's potential impact on affordable housing production. The County decided not to allocate DAP revenues to affordable housing because it was felt that DAP revenues wouldn't be sufficient to make the needed transportation improvements, let alone contribute to affordable housing funds.

When Policy Areas With Alternative Review Procedure Approvals Come Out of Moratorium

In the past year, several subdivisions, or portions of subdivisions, approved under the Alternative Review Procedure for Limited Residential Development have returned to the Planning Board for re-approval. These projects were first approved in a policy area that was in moratorium at the time, but sought re-approval when the policy area received development capacity from a new roadway project.

These re-approvals raise a number of issues about how to interpret the existing provisions and whether unintended consequences have resulted. The case of the Llewellyn Fields subdivision is illustrative.

Llewellyn Fields was originally approved under the Special Ceiling Allocation for Affordable Housing. In general, the AGP does not allow projects approved under the Special Ceiling Allocation to use the Alternative Review Procedure; the exception is subdivisions "located in a large lot zone where Moderately Priced Dwelling units (MPDUs) are not required." At the time, the only subdivision to which that exception applied was Llewellyn Fields.

LLewellyn Fields was one of the first subdivisions to receive approval under the Alternative Review Procedure in June 1994. A total of 70 units were approved. The developer paid the Development Approval Payment on the first 30 units in the subdivision, an expenditure of about $300,000 or about $10,000 a unit.

In the FY97-02 CIP, Norbeck Road Extended was available to be counted for AGP capacity for the first time. The effect of this was to remove the moratorium for housing in Cloverly. The developer of Llewellyn Fields returned to the Planning Board to seek re-approval of their project using the new capacity. He also requested a refund on DAP payments already made, but this request was not granted.

As mentioned, the Alternative Review Procedure for Limited Residential Development allows developers to not be subject to both Policy Area Transportation Review and Local Area Transportation review. The programming of Norbeck Road Extended removed Policy Area Transportation Review as an obstacle to Llewellyn Fields and the developer returned to the Board for re-approval of his remaining 40 units. A main issue at re-approval was whether or how to apply Local Area Transportation Review guidelines to the remaining 40 units.

Developers of two other subdivisions, were also re-approved in Cloverly, but there projects were not large enough for LATR to be an issue.

What Does the DAP Buy a Developer? During the review of the Llewellyn Fields project, the developer argued that, for AGP purposes, paying the DAP is the same as building an intersection improvement. And if that improvement creates more capacity than is needed by the first 30 lots, the developer should be able to use the capacity from that improvement when the rest of the lots were being reviewed.

In the case of Llewellyn Fields, the developer paid about $300,000 in DAP fees. Had the developer waited for Norbeck Road Extended to be programmed, it is estimated that his costs under LATR for the 70 units would have been about $125,000. The developer argued that since he had already contributed more money than the LATR improvement would have cost, he should not have to also make the intersection improvement. The developer wanted credit for an intersection that was not yet programmed because he had contributed sufficient funds for it to be built.

The alternative view is that payment of the DAP releases the developer from both PATR and LATR obligations only for the units for which the DAP is paid. In other words, paying the DAP for the first 30 units confers no benefit on the remaining 40 units unless or until the County actually programs a road improvement with the DAP payments. This argument suggests that it is not up to the developer to specify the roadway project his DAP payment will fund, nor can he (or any other developer) "count" the non-existent intersection improvement as existing when other units are up for review.

Another point raised during the Llewellyn Fields discussion concerned Policy Area Transportation Review. When the developer paid the $300,000 in DAP funds, the area was in moratorium. The moratorium was lifted due to the programming of a $21 million road. If one can assign the developer's contribution to specific transportation projects, how much to assign to staging ceiling

projects and how much to assign to intersection improvements? Once Norbeck Road Extended was programmed, did the former moratorium become a moot point?

This discussion suggests that a by-product of the Alternative Review Procedure is to lessen the association of approved development with specific transportation improvements. To some extent, this benefits a developer, because he no longer has to mitigate the trips associated with those units. But if he has additional trips that need to be mitigated, it may benefit him more if the specific improvement is actually made.

In staff's review of the Alternative Review Procedure for Limited Residential Development two years ago, staff discussed the situation of projects partially approved under the procedure. Staff noted that for most of these projects, the remaining units would still be subject to LATR and the developer would likely have to make the same LATR improvement he would have for all units. At the time, staff suggested that this would provide the County with a greater measure of security that the infrastructure would ultimately be built. In making that argument, staff pointed out that the Annual Growth Policy regulates the *timing* of development; what the developer buys when he pays the DAP is the ability to move forward *sooner.* Whether that ability is worth the cost is a decision he can make.

A literal reading of the Alternative Review Procedure language is that payment of the DAP has no implications beyond allowing the units for which it is paid to move ahead. Nothing in the Alternative Review Procedure Language suggests that the DAP is a contribution toward a specific transportation improvement; in fact, the link between payment of the DAP and programming of improvements was deliberately left flexible.

The Planning Board agreed with the developer of Llewellyn Fields that his $300,000 DAP payment covered his LATR obligations for the entire 70-unit development. If it is a policy objective, the County can assure that no developer will pay more in DAP fees than he would otherwise have been required to spend had he been approved under the normal procedures. Language to this effect can be added to the Alternative Review Procedure to make it more clear that this is what the County intends.

Timing of Programming of the Public Facilities Supporting DAP Approvals: DAP revenues are intended to be used by the County to help finance the staging ceiling and intersection congestion improvements needed to support projects approved under the Alternative Review Procedure. The timing of these partially DAP-funded improvements has a number of implications.

Naturally, residents and other users of the transportation network affected by the subdivisions approved under the Alternative Review Procedure would like to see the County program the needed transportation improvements as soon as possible. However, if the County moves to quickly to program the improvements, the subdivisions approved under the Alternative Review Procedure can "count"

them and come back for reapproval. In other words, if the County moves too quickly to spend DAP revenues, there will be no DAP revenues to spend.

Conversely, the only way for the County to be assured that approved projects pay their DAP payments in full is to delay the programming of the facilities to support the development until all of the building permits have been pulled. This may be well after construction has been completed on a substantial portion of the development.

Should the Amount of the Development Approval Payment be Changed?

This question is in two parts: is the Development Approval Payment calculated appropriately? and is the amount of the Development Approval Payment appropriate?

The DAP methodology is based on that developed for the proposed Construction Excise Tax. The methodology is shown in the box on page 88 of this document. Changes could include exempting buildings that are not now exempt; not exempting property that is now exempt, and changing the definition of "gross floor area" to which the DAP is applied.

Park and Planning staff reviewed the method for calculating the Development Approval Payment when it was first approved back in 1994. Staff has no new evidence that the method for calculating the DAP should be changed.

The appropriateness of the amount of the DAP payment can be tested against the objectives of the two Alternative Review Procedures. Both are intended to encourage development but at the same time provide a reasonable contribution toward infrastructure. This effectiveness of this "encouragement" is difficult to quantify. On the residential side, only 69 of the housing units approved under the procedure have pulled building permits. Developers have a maximum of six years to get building permits for units approved under the procedure (three years to go to record plat, then three years more to get the building permit) and the oldest of the approvals will be four years old in July. Possibly development will accelerate as deadlines approach.

Overall, residential development in the County has remain nearly constant since the passage of the Alternative Review procedure at an average of 3,000 units per year. The variations each year are almost entirely due to multi-family buildings, and these variations have more to do with the size of the projects than with the condition of the real estate market.

From the point of view of providing "encouragement," the Development Approval Payment does not appear to be too low; from the point of view of paying for infrastructure, DAP revenues will not be sufficient to pay the full cost of the transportation improvements to support the housing approved. Conventional wisdom suggests that reductions in the DAP payment will stimulate residential construction to some degree, but it would be impossible to calculate the number of additional housing units the County could expect from a particular cut in the DAP fee. If the County has a number of housing units it would like to see pro-

duced every year, and that number is above 3,000, then the County may wish to consider cutting the DAP fee.

On the other hand, perhaps the true utility of the Alternative Review Procedure for Limited Residential Development is not to stimulate residential development to a great degree. Perhaps the procedure's value is that it provides a "way out" for developers who, because of size or lack of partners, can't make use of development districts or full-cost developer participation. If this is the value of the Alternative Review Procedure, then the fact that residential construction has been relatively flat is not a concern. In fact, it may suggest the the amount of the DAP fee is just about right.

No project has yet used the Alternative Review Procedure for Metro Station Policy Areas. However, there has been very little non-residential development Countywide. So the lack of use of the procedure can't be used as evidence that the Development Approval Payment is too high. An informal discussion with a developer interested in a site at one of the Metro Station Policy Areas suggested that the amount of the DAP fee was not a major consideration for them.

Alternative Funding Mechanisms: Development Districts and Partial Cost Developer Participation

In evaluating the Alternative Review Procedure for Limited Residential Development, it is necessary to review other mechanisms to determine if the procedures' objectives can be met in other, possibly better ways. Other mechanisms include development districts and a new version of partial cost developer participation.

Development Districts

Development districts allow developers to finance infrastructure through the use of bonds. The adequate public facilities tests applied to development districts are the same as to individual developers. Publicly-funded infrastructure may be included; this means that development districts are a way for the public to support new development in an area where new capacity would ordinarily be applied to an existing deficit . This may be appropriate in areas where the public policy objectives met by the new development outweigh the public policy objectives of lessening the deficit.

In October the Planning Board approved the public facilities program for the West Germantown Development District. The package of improvements included roadway improvements and a new elementary school. The County Executive is expected to propose that some of the facilities be paid for by the County.

The West Germantown Development District is under review by the Executive.

Partial Cost Developer Participation

Partial Cost Developer Participation is a mechanism through which the public and private sectors jointly fund transportation improvements which will result in addition development capacity. This mechanism is being reviewed here because it offers an alternative to the Alternative Review Procedure for Limited Residential Development

In the adoption of the 1995-1997 AGP Policy Element, the County Council removed a partial cost developer participation provision that had been in the AGP since 1989. It had never been used. That provision was applicable only in very limited cases and would have required a very extensive approval process.

More recently, an example of what could be termed "partial cost developer participation" has been pursued. A question is whether this offers a model for more widespread use.

Norbeck Road Extended

Norbeck Road Extended is a roadway project in the Capital Improvements Program which will construct a 2.95-mile connection between Maryland routes 28 and 198. Because 100 percent of the construction funding for this project was shown in the first four years of the adopted FY97-02 CIP, the development capacity resulting from the road was allocated to the Cloverly and Olney policy areas for FY97.

However, in the Recommended FY97-02 CIP, the project was shown as not starting construction until the third year of the CIP, which meant that it would not be countable for Local Area Transportation Review (LATR). However, the County anticipated agreements with developers in the area that would allow the project to be accelerated so that the project would be countable for LATR. That is, if developers contributed a prescribed share of the project's cost, the County would program a small portion of the construction funding in the second year of the CIP, thereby allowing it to be counted. A notation to this effect was placed in the project description form for Norbeck Road Extended.

The Norbeck Road Extended project was also shown in the County Executive's Approved Road Program. This is the official list of projects that can be counted for LATR. The project form has the following notation:

> *The Approved FY97 CIP anticipates agreements with developers for the funding of this project. Therefore, this project is available for local area review only to those developers who have completed and signed specific funding agreements with the County. The Department of Public Works, Division of Engineering Services, will notify Maryland-National Capital Park and Planning Commission whenever any agreements have been completed.*

In this case, the County had a specific roadway project already in the capital budget. One or more developers had an interest in seeing that the project be accelerated. The County identified a share of the total funding it needed from other sources (that is, the private sector) in order for the project to be accelerated.

The capacity the developers will receive for their contribution is for LATR only; the staging ceiling from Norbeck Road Extended was allocated the usual way: on a first-come, first-served basis. Additionally, the developers that received LATR capacity were the first in the queue of pending development. This means that they did not jump ahead of other projects because of their contribution to the road.

Possibility of Wider Use of Partial-Cost Developer Participation Approach

Permitting developers to receive development capacity from contributions to public road projects is consistent with the overall goals of the AGP because it maintains the balance between the provision of public facilities and the approval of development. In addition, it allows developers to provide the capacity needed to support their development in cases where a development district is not appropriate. Even so, broader application of the approach may raise a few issues, discussed below.

Apply to Policy Area Transportation Review as Well as LATR: In the Norbeck Road Extended example, the road was already countable for Policy Area Transportation Review (PATR), so Local Area Transportation Review was the only issue. Staff does not believe there is a policy objection to allowing the procedure to be used in cases where the road is needed to meet PATR as well.

Apply to Transportation Projects the County Has Already Identified as a High Priority: These would be transportation projects already in the CIP (as stand-alone projects or projects for which facility planning is nearly complete) but not yet countable for the AGP. As in the Norbeck Road Extended example, the County Executive would identify projects with potential for developer contributions in his Recommended CIP for the Council's approval. This would help mitigate a concern that capital programming priorities would be inappropriately skewed by the expectation of private sector contributions.

Allow Contributing Projects to "Jump Ahead:" Should developers who agree to contribute to publicly-funded transportation projects be allowed to jump ahead of those who don't? Staff believes it would be useful to allow contributors to jump ahead as long as the remaining (that is, publicly-funded) capacity created by the project is allocated on a first-come first-served basis. If they were not allowed, ready-to-go projects could be trapped behind projects content to wait for publicly-funded capacity. Other projects in the queue would also benefit from the speedier programming of the publicly-funded portion.

Determination of Fair Share: For staging ceiling, a developer's fair share contribution would be one that is roughly the same proportion to the total cost of the project as the amount of staging ceiling needed by the developer is to the total capacity created by the transportation project. Allocation of LATR capacity would work in the usual way. The Department of Public Works and Transportation would notify M-NCPPC when agreements with developers are signed.

Timing of Countability: The developers' contributions would allow the County to accelerate a project in the CIP so that it becomes countable. The developers would not be allowed to count a project before it is accelerated. To be countable for PATR, the project would have to be fully funded in the first four years of the CIP; for LATR, the project would have to have 100 percent of the construction funded and construction expected to start in two years. Capacity created by the transportation improvement would be determined in the usual way.

Explicit Acknowledgement of the Approach in the AGP: It may be useful to explicitly acknowledge "partial cost developer participation," as it is practiced, in the AGP to avoid confusion or misinterpretation. Language might be:

> *The Department of Public Works and Transportation, with the approval of the County Council, may enter into funding agreements with developers to accelerate programmed transportation improvements. In exchange, contributing developers will receive priority access to the development capacity provided by the transportation improvement when it meets the criteria for countability under Policy Area Transportation Review and Local Area Transportation Review.*

As a substitute for the Alternative Review Procedure for Limited Residential Development, partial cost developer participation does a better job of assuring that development will not outpace the facilities that support it. On the other hand, partial cost developer participation offers less flexibility and certainty to developers than the Alternative Review Procedure.

Should Certain Projects in Fairland/White Oak to be Allowed to Make Use of the Alternative Review Procedure (Harris Proposal)?

The Alternative Review Procedure for Limited Residential Development is not currently available in the Fairland/White Oak Policy Area because of the length of its moratorium (since 1986) and depth of its housing deficit (-4,155 units). The procedure also does not apply in Aspen Hill and Montgomery Village/Airpark for the same reasons.

The Fairland Master Plan was recently adopted. The Master Plan resolution directs this AGP Policy Element to "consider issues raised by certain property owners during the Council's consideration of the Fairland Master Plan. They requested that an exemption be created to allow the construction of additional lower density single-family units in the Planning Area, even though the area is in moratorium."

Several Fairland/White Oak landowners have requested that the County consider allowing the procedure to be available to certain types of residential development, specifically single-family detached homes on large lots

Fairland/White Oak Net Remaining Capacity 1982-Present

As Determined by the Comprehensive Planning Policies Report

1982	1,351
1983	-992
1984	-295
1985*	-2,133
1986*	-1,571
1986a*	-2,573

As Determined by the Annual Growth Policy

FY88*	-1,308
FY89	-3,668
FY90	-3,113
FY91	-2,418
FY92	-2,626
FY93	-2,371
FY94	-2,458
FY95*	-4,244
FY96	-4,008
FY97	-4,155
FY98 draft	-4,155

** there was a major change in the methodology for determining net remaining capacity from the year before.*

Source: Staff Draft FY98 AGP Ceiling Element.

and in planned communities. The landowners suggest that this is needed to fulfill the master plan's objective of encouraging this type of housing in the area.

One or more of the landowners is being represented by attorney Robert R. Harris, who submitted a written proposal to Park and Planning staff. For utility's sake, this document will refer to the landowners' proposed AGP Amendment as the "Harris Proposal."

Members of the master plan's citizen advisory committee reviewed the proposal and support the type of development proposed by the landowners but believe additional development should continue to be linked to the provision of infrastructure, specifically the planned grade-separated interchanges along US 29.

Public Facilities Adequacy in Fairland/White Oak

The Fairland Master Plan's *Planning History* section (pages 5-12) contains a thorough review of the development history of the area. The review shows an area where development has consistently outpaced the delivery of transportation infrastructure. In 1983, Fairland/White Oak's housing deficit was -922 units; today the deficit is -4,155 units (although the numbers are not strictly comparable because methods of calculating staging ceilings have changed).

Subdivision approvals can occur in moratorium areas if a developer provides the transportation infrastructure needed to support that development. In the Fairland/White Oak policy area, the major capacity-generating transportation improvements to be made would be to US 29. The cost of interchange construction is considerable and none of the proposed developments is large enough, on its own, to shoulder more than a fraction of the cost.

Developers who cannot make infrastructure improvements have an alternative: they can remove from the roadways an equal number of trips as their project generates. The trips must be mitigated for a period of ten years, after which it is assumed that infrastructure will be provided. Fairland/White Oak has had 1,788 units approved this way. A number of these programs will expire in the next few years.

During the late 1980s' development boom, the Special Ceiling Allocation for Affordable Housing was the other method for developers of housing to gain approval of their projects in Fairland/White Oak. Between 1988 and 1991, 650 housing units were approved

Residential Development Approved in Fairland/White Oak Using Traffic Mitigation Programs

Knightsbridge/SS Country Club
608 garden apartments
Built park-and-ride lot, subsidize vanpools
Expiration: 30+ years from now

McKnew and Malcolm Properties
669 townhouses, 161 detached houses
Share-a-ride program to remove 180 trips
Expiration: next few years

Linton Property
25 detached houses
Subsidize bus service/operate commuter shuttle
Expiration: starting 12-year term

K-II Property
158 housing units
Operate Doral shuttles/83 trips
Expiration: next few years; possible default

Shiental & Burtonsville/Natelli
89 detached houses
Built and operate park-and-ride lot/60 trips
Expiration: next few years

Deek Park and Fairland Estates
78 detached houses
Strengthen County Share-a-Ride Program/82 trips
Expiration: about 5 years from now.

under the provision in Fairland/White Oak, about 36 percent of them below market housing (only Germantown West, with 673 units approved, had more. Germantown West is not currently in moratorium for housing). In 1991, Fairland/White Oak was made ineligible for more approvals under the Special Ceiling Allocation because of its worsening transportation congestion and belief that the area had approved a sufficient amount of affordable housing.

In the 1990s, the County has typically not allowed AGP "exemptions" such as the Special Ceiling Allocation and the Alternative Review Procedure to be used in areas with large and long deficits. The technical justification for this is that the deeper in moratorium an areas is, the greater the negative impact of each additional trip. In other words, a ten-unit subdivision added to an area with -100 remaining capacity is "less bad" than a ten-unit subdivision added to an area with -1,000 remaining capacity.

No AGP policy area has been in moratorium because of inadequate public school facilities. Fairland/White Oak is served by the Paint Branch and Springbrook clusters. The FY98 Staff Draft AGP Ceiling Element shows the Paint Branch cluster in 2001 to be at 97 percent of capacity at the elementary level, at 104 percent of capacity at the middle school level, and at 91 percent of capacity at the high school level. The Springbrook cluster is shown as being at 98 percent of capacity at the elementary school level, 84 percent of capacity at the middle school level, and 90 percent of capacity at the high school level.

Status of Grade-Separated Interchanges on US 29

US 29 is the major north-south transportation facility in the eastern part of the County. Congestion on US 29 is a major reason the Fairland/White Oak Policy Area is in moratorium. Most intersections along US 29 are forecast to continued to experience high levels of congestion. The State Highway Administration has proposed a series of intersection improvements -- grade-separated interchanges -- on US 29 between University Boulevard and the Montgomery-Howard County line. A total of 11 interchanges are proposed, one of which is north of the policy area's boundary.

At this time, it is impossible to predict with any accuracy the development capacity that will result from the completion of the interchanges. It is expected, however, that the resulting capacity will not be sufficient to eliminate Fairland/White Oak's existing deficits in jobs and housing and support buildout of the master plan. Substantial improvement in the transit mode share will also be required. A study to consider an exclusive bus-only lane (busway) from the Silver Spring Metro Station to MD 198 is underway.

It may not be until most or all of the interchanges are built that there is significant improvement in north-south congestion, although east-west congestion would improve as each interchange is opened. There is also some concern that improved conditions on US 29 will draw drivers from I-95 as well as current users of transit.

The InterCounty Connector would also improve east-west congestion in the policy area.

Typically, the AGP allocates the capacity created by publicly-funded transportation improvements first to relieve any deficits that exist. If there is remaining capacity, it goes toward new development. In the case of Fairland/White Oak, an issue during the master plan process was whether it may be appropriate to reserve for new development a substantial portion of the capacity created by the interchanges. There was some general agreement that this should be considered if the overall amount of development allowed by the plan was less than that allowed by the previous plan. Existing mechanisms which would allow new capacity to be reserved for new development are development districts and partial-cost developer participation, both of which were reviewed in detail earlier in this section.

The County's expectations regarding the timing of the US 29 interchange program is important to framing the debate about the proposed AGP amendment because under existing rules development cannot proceed until one or more interchanges enters the first four years of the capital program.

The State Highway Administration completed project planning on two interchanges: US 29 at MD 198 and US 29 at Randolph Road. These two interchanges are now in the CTP's Primary Development and Evaluation Program. State officials indicated that a ballpark estimate of the time needed to final design would be three years. They also indicated that the interchanges are anticipated to be 100 percent state-funded.

Desirability of Single-Family Detached Development in Fairland/White Oak

The Fairland Master Plan states that the townhouses and multi-family units make up almost 70 percent of Fairland's housing stock, compared to 48 percent County-wide. Fairland's population is currently fairly young, but as it ages, its need for space will increase. A general preference for single-family detached housing and Fairland's household characteristics suggests that additional single-family detached housing would best serve the needs of the community, the plan states. It would also produce a closer balance among housing types.

Regarding residential development in the area, the plan states that "emphasis is placed on single-family detached housing with the centerpiece being a golf course community developed in conjunction with an upgrade public golf course." The plan also states that "increasing single-family housing is the main housing objective of the plan."

The Harris Proposal

A proposal to allow large lot residential development, including the planned golf course community, to develop ahead of the US 29 interchanges, has been prepared by Robert R. Harris. Mr. Harris is an attorney representing owners of land zoned for large lot residential development.

Specifically, Mr. Harris proposes amending the Alternative Review Procedure for Limited Residential Development by adding the following language at Section A3(b)(2):

> *...provided, that in a policy area where there has been no staging ceiling capacity for residential development for ten years or more, the procedure may be used for (i) approval of planned communities where such development will provide master planned park and/or major amenities such as golf course or (ii) approval of low density, single family detached subdivisions where densities do not exceed two units per acre.*

Mr. Harris notes that "if it is necessary to further limit its use in the Fairland area to even lower density development, this second provision could apply only to subdivisions where densities do not exceed one unit per acre." The Office of Planning Implementation has identified the five areas to which the proposal would apply (see box).

If Mr. Harris' proposal were adopted, the maximum number of housing units that would be permitted for any one development would be 100 and for the policy area, 300 per year. At least one of the areas is large enough that its zoning will allow more than 100 units to be built: the Golf Course Community property (396 units). Because of the 100-unit limit, the maximum number of housing units that would be permitted to be developed would just over 400.

Developable Parcels in the Fairland Planning Area Under the Harris Proposal

Great Oaks
(area 31 in master plan, page 31)
55 acres in County
zoning: RE-2/TDR, 2 units per acre
maximum number of units: 110

Golf Course Community
198 acres
(area 2 in master plan, page 47)
zoning: R-200/PD-2, 2 units per acre
maximum number of units: 396 in County

Conley Farmhouse Tract
8 acres
(area 7b in master plan, page 50)
zoning: RE-2C
maximum number of units: 3 plus existing house

Hunt and Baldi Properties
147 acres
(area 1 in master plan, page 57)
zoning: RE-1
maximum number of units: 147

Area 4
64 acres
(area 4 in master plan, page 58)
zoning: PD-2 (48 acres), R-200 (6 acres), RE-1 (10 acres)
maximum number of units: 106

Source: Montgomery County Office of Planning Implementation, 2-27-97.

Mr. Harris notes that because the average Development Approval Payment for single-family detached housing is in the $10,000 to $11,000 range, the revenues from the housing approved in Fairland/White Oak under the procedure would more than double the estimated $3 million collected from the impact tax in the area. If desired, these funds "could be further restricted for use exclusively within the planning area in which they were generated."

Finally, Mr. Harris notes that his proposal is considerably more restrictive than the basic provisions of the Alternative Review Procedure for Limited Residential Development that apply elsewhere and that the County may wish to amend the procedure so that it applies in Fairland/White Oak the same as it applies elsewhere.

CAC Reaction to Proposal

Park and Planning staff met with five representatives, including Chairman Stuart Rochester, of the Fairland Master Plan citizens advisory committee to review the Harris proposal. The overall reaction was that the representatives

support the development which would be permitted by the proposed amendment, but do not want it to occur ahead of the infrastructure needed to support it.

Specifically, the CAC representatives believe new development should be linked to the interchange improvements. They noted that relieving Fairland/White Oak's deep moratorium would ordinarily be the first priority when allocating staging ceiling from the interchange improvements. Therefore, their willingness to allocate it to new development instead is already a compromise of APF principles in recognition of the importance of allowing desired development an opportunity to proceed.

The CAC representatives suggested that the community as a whole may be less inclined than the CAC to support allocating the capacity from new infrastructure to new development. They believe the community is less concerned with allowing new development to proceed and more concerned with adding the facilities needed by existing residents.

Tom Faringer's Proposal

Mr. Tom Faringer, a member of the Fairland Master Plan Citizens Advisory Committee (CAC) and a long-time participant in issues facing the Fairland/White Oak area, has offered his independent proposal for allowing the buildout of the development envisioned in the Master Plan. After reviewing the history of the application of the Adequate Public Facilities Ordinance in Fairland -- including lengthy and deep deficits for both jobs and housing -- Mr. Faringer states that "Despite this very significant lack of capacity, it still may be advisable to consider options to avoid landowner repercussion to an over-lengthy moratorium. The following list of conditions could offer an window to relieve the situation." The following italics quote Mr. Faringer's proposal in full:

Provided:

1. *The density recommended by the CAC, the Planning Staff, and the Board for undeveloped residential property is also approved by the County Council in the revisison of the Fairland Master Plan.*
2. *The Northeast High School is either under actual construction or programmed.*
3. *Any elementary school or Middle School needed to meet student requirements of the suggested level of growth below is either under construction or completed.*
4. *At least one Recreation Center has been built in the Fairland Planning Area.*
5. *The realignment and grade-separated insection of Route 29 and Route 198 is fully funded and construction initiated.*

Having met each of the above five conditions, no more than 100 units/year with a cap of 300 would be scheduled for construction. The same number of units would follow the initiation of another grade separated intersection along Route 29. While 100 units/year may seem a small number, the County should be mindful that this is a considerable compromise of the true intent of the APFO, and that the planning area will most likely have considerable negative transportation capacity imposed upon them, even after Route 29 becomes a freeway. The 300 unit cap for each grade separated intersection multiplied by the seven grade separated insections planned in Fairland for Route 29 to become a freeway is somewhat more than the number of units at buildout, but is more favorable to developers of larger tracts.

The representatives rejected the idea that development could be approved soon with transportation facilities to be provided later. They said that Fairland/White Oak did not receive needed infrastructure "when the County had money, and now the County doesn't have money." One CAC member, Mr. Faringer, suggested that development not be approved until the interchanges are actually under construction, rather than in the first four years of the CIP (see box).

The CAC representatives were also concerned that the Alternative Review Procedure allows "too loose a connection" between development approval and delivery of infrastructure. Apart from the timing, they were also concerned that DAP revenues might not be spent in Fairland/White Oak. They felt the community needs to see "ironclad" ties between new development and infrastructure.

CAC representatives were skeptical that the proposal could be limited to specific zoning categories and that after the precedent was set, other property owners would want to be approved as well.

Approvals under the Procedure in Cloverly were also a concern. CAC representatives suggested that the new residents in eastern Cloverly use Fairland roads on a regular basis. They also noted that new development in Cloverly has put increasing pressure on school capacity, and believed that new development in northern Fairland would have the same effect.

Staff Recommendations

To a great extent, Park and Planning staff's recommendations regarding whether the Alternative Review Procedure for Limited Residential Development should be extended depends upon the analysis by the Department of Public Works and Transportation. MCDPWT will meet with Park and Planning staff on May 1 and the information from that meeting will be available during the Planning Board's worksessions on this issue. It will also be incorporated into the Final Draft AGP Policy Element.

Two years ago, staff recommended that the procedure be extended another two years to allow development districts an opportunity to "catch on" as a funding mechanism. It is unfortunate that the first development district has not proceeded in a more rapid fashion. The delay may discourage use of development districts, which staff believes have several major major benefits: they maintain the integrity of the APFO in a more affordable way and they allow for a comprehensive review of the facilities needed to support the development under review, whether or not they are required by the AGP. The delay may also be an indicator that development districts are not appropriate for widespread application, and so staff is tempering its enthusiasm for them: whereever they are recommended, staff also provides one or more alternatives which does not rely on the development district mechanism.

A decision on the Alternative Review Procedure for Limited Residential Development depends to a great extent on what the purpose of the procedure is.

The stated purpose is to stimulate residential development, which it has not done yet. An alternative purpose is to offer a relatively expensive way out of the moratorium for smaller amounts of development that may not easily use development districts.

The question of whether residential development should be stimulated may be answered by looking for evidence that demand for housing is outstripping the supply. Most of the evidence does not support that conclusion. If the housing supply were artificially constrained by growth policies, one would expect to see an increase in the value of housing over time. To the contrary, housing sales prices have not kept pace with inflation in this decade. The number of homes sales has also declined significantly, although there are recent indications of a possible rebound. The number of new jobs, which stimulate demand for new housing, did not return to pre-recession levels until 1995 and have been growing fairly slowly since. If the overall demand for housing remains flat, it is unlikely that even a reduced Development Approval Payment will be sufficient to increase home production significantly.

On the other hand, it may be argued that the fairly rapid increases in residential development in Frederick and other outlying counties is evidence that Montgomery County's pace of residential development should be stimulated. Additional housing units in the County would give more options for County workers to also be County taxpayers. However, the question is still whether changes to the amount of the development approval payment would be enough to stimulate construction.

If the Alternative Review Procedure is to continue, it may be useful for policymakers to revisit the procedure's purpose and perhaps restructure the procedure accordingly. If the purpose of the Alternative Review Procedure is to provide a very limited "escape valve" for moratoria, then it may be appropriate to change the DAP to something that is more reflective of the actual cost of infrastructure.

In Issue 1 of this document, which concerns school capacity, Park and Planning staff suggest that a "pay-and-go" approach is greatly strengthened if there are pre-identified solutions that can be funded with developer contributions. Staff feels the same way about transportation capacity, but recognizes that it is impossible to identify needed LATR improvements until a subdivision is actually approved. This is a challenge created by the Alternative Review Procedure for Limited Residential Development that can only be partially addressed by changing how the DAP is administered.

On the other hand, solutions can be pre-identified in Metro Station Policy Areas. That is the purpose of the Comprehensive Local Area Transportation review that is required before the Alternative Review Procedure can be used in a Metro station policy area.

In either event, staff believes that tying a developer's contribution to a specific improvement as soon as possible is important, for two reasons. First, it

allows a comparison on a case-by-case basis of developer contributions and improvement costs. Second, the County must be able to count on developer contributions.

There is a "chicken-and-egg" problem that results when the County moves too quickly to provide infrastructure to support development approved under the procedure. If the improvement is programmed on the expectation of developer contributions, it is available to be counted --- and may be counted by the very developer who is expected to help fund it. And if he can count it, he can be re-approved using that capacity and avoid making the contribution. This problem may be addressed by limiting the ability of developers with projects approved under the Alternative Review Procedure to bring them back for re-approval using new capacity. Specifying in the CIP that DAP funded projects may only be counted by subdivisions approved under the Alternative Review Procedure if they actually pay their fees should address this question.

A more complicated approach would weigh the contributions the developer has already made against the costs of the capacity his subdivision requires. In other words, the County could specify how DAP payments should be credited when projects previously approved under the Alternative Review Procedure return for re-approval using existing capacity.

Staff suggests the following mechanism if the objective is to make sure the developer does not pay for more transportation infrastructure than his development uses:

1. The remaining development is subject to LATR if the total project (including lots upon which the DAP has been paid) would generate fifty or more peak hour trips. However, the developer would only have to mitigate trips from lots for which the DAP had not been paid.

2. The remaining development is subject to PATR.

3. If the developer wishes to make the case that he has already paid sufficient money in DAP revenues to pay for improvements that would have been required under ordinary APF tests, the analysis must include the developer's pro-rata share of staging ceiling costs, if any, as well as his share of LATR costs.

   In other words, suppose the County programs a $5 million road which provides a total of 2,000 units of staging ceiling (or $2,500 per unit). A developer with 100 units approved under the Alternative Review Procedure has paid the DAP on 55 of those units, or about $550,000. The developer would like to get reapproval for the remaining 45 units using the new capacity.

   The remaining 45 units are subject to LATR, which would require an intersection improvement costing $250,000. The developer argues that he's already paid $550,000. Staff's recommendation is that the developer's $550,000 also went toward the developer's share of the $5 million road, which was $2,500 per unit. In this case, the developer's share of the $5 mil-

lion road is $137,500, which in addition to the $250,000 intersection improvement, brings his total "liability" to $387,500. Since he already paid $500,000, he would not be required to make any more improvements for his remaining units.

As a final point, staff notes that development approved under the Alternative Review Procedure for Limited Residential Development has a shorter time limit: 3 years after record plat or site plan approval. If the Alternative Review Procedure continues indefinitely, this time limit has no meaning because units not built before the deadline could come back for re-approval under the procedure. A provision could be added to keep this from happening if the County wishes to make sure that projects approved under the procedure really "use it or lose it."

Fairland/White Oak

In the case of Fairland/White Oak, staff continues to believe that development districts are the best mechanism to allow new development to proceed (although staff recognizes that development districts may be difficult to implement and therefore also has a recommended alternative). Staff is not convinced that implementing the public policy objective of large lot development in Fairland is so urgent that it should proceed ahead of transportation network improvements. When an area is deeply in moratorium, the effect of each additional trip is magnified.

Staff's overarching philosophy is that the pace of development should not proceed ahead of the provision of transportation capacity, particularly in areas where there are a very limited set of transportation improvements available to be made, unless it is needed to meet urgent and important public policy objectives.

As was mentioned, the usual practice is to allocate new transportation capacity to deficits, rather than to new development. Allocating most or all of the capacity from the grade-separated interchanges to new development does present a departure from current policy in order to see that the development envisioned in the master plan can take place sooner.

Staff is assuming that development districts would be triggered by the programming of one or more of the Route 29 interchanges. This would allow new development to use the new capacity created by the interchange. It would also provide an opportunity for the developer, the community, public officials and staff to review proposed development in light of community facility needs not explicitly addressed by the APFO. Because the interchanges are a state responsibility, the development district revenues may not be needed to finance the interchanges themselves. However, policymakers may identify a set of community facilities from the Master Plan which should be funded by the district in exchange for the transportation capacity the district will be receiving.

In a sense, the County would "leverage" the state's contribution of grade-separated interchanges, through development districts, to obtain appropriate contributions from the private sector.

Mr. Faringer's proposal has several elements which are consistent with staff's approach. Mr. Faringer ties development to the provision of infrastructure and community facilities. His test is "tighter" in that he would require publicly-funded infrastructure to be under construction, rather than in the first four years of the CIP. His proposed mechanism is also simpler because there is a predetermined amount of development associated with each interchange.

Mr. Faringer's proposal does not, "test" each interchange to see how much development it will support. Each interchange may support more or less than the 300 units Mr. Faringer proposes. The development district test would determine the actual capacity that can be expected from the interchange. However, Mr. Faringer's proposal provides a measure of certainty that testing the capacity of each interchange does not, and he makes a rational argument that since buildout of the master plan is predicated upon the interchanges, divided up the remaining housing by the number of housing units makes sense.

A question that has not been addressed by either the Harris or Faringer proposals is non-residential development. Most jobs capacity is now held by the West*Farm development project, the approval for which will expire in 2001. West*Farm may fully develop by then, but that would require a significant acceleration in construction activity. Upon expiration, its unused capacity would typically revert to the lessen the deficit. A benefit of the development district approach is that non-residential as well as residential development can participate.

The main reason staff continues to support the use of development districts in Fairland/White Oak is that this mechanism will tie the approval of new development to the provision of infrastructure, because it will allow the County to leverage publicly-funded infrastructure with reasonable contributions from the new development supported by that infrastructure, and because it will allow the County and developer(s) to review development and infrastructure needs comprehensively.

However, staff also notes that development districts are difficult to set up and may be unnecessarily complex for this application. Staff's alternative recommendation is a little closer to Mr. Faringer's proposal and would be simpler than development districts with a similar outcome.

In this alternative, development would be allowed to proceed when an interchange improvement is programmed in the first four years of the CTP. The amount of development allowed to proceed for each interchange would be determined in the usual manner; i.e., running the TRAVEL/2 model. However, this amount of development would only be allowed to proceed if they paid the Development Approval Payment. The rationale is that this development is being approved in a moratorium area, even though a transportation improvement is being made. The revenues from the DAP would go to a pre-identified list of improvements based upon the recommendations in the Master Plan.

Issuè Eight

Takoma Park Unification

Park and Planning Department staff recommends that the annexed portion of Takoma Park be added to the Silver Spring/Takoma Park Policy Area. Staff recommends increasing the gross staging ceiling of the Silver Spring/Takoma Park Policy Area by an amount equivalent to the existing base of development and the pipeline of approved development in the annexed area. This would result in net remaining capacities of 565 jobs and 2,363 housing units. These are the same net remaining capacities that are currently available in the Silver Spring/Takoma Park Policy Area.

Background

The County's annexation of the Prince George's County portion of the City of Takoma Park will be effective on July 1 of this year. Policy area boundaries do not automatically change when jurisdictional boundaries change; rather, policy area boundary changes require an affirmative vote of the County Council. Although the AGP Ceiling Element, which goes into effect each July 15, would provide a more timely opportunity to effect this boundary change (since it would nearly coincide with the annexation's effective date), boundary changes are considered a policy issue and not a "ceiling" issue.

Staging Ceiling Recommendations

Boundaries changes in and of themselves do not add or delete staging ceiling because they do not change the capacity of the transportation network. Only in the cases where new policy areas are used to concentrate development near Metro stations have new transportation efficiencies allowed additional capacity to be allocated.

The TRAVEL/2 transportation model, which is used to calculate and allocate transportation capacity to development, is a regional model. It takes into account existing and approved (or forecast) development and transportation facilities from north of Baltimore to south of Fairfax County, Virginia. This includes, of course, all of Prince George's County and in particular, the annexed portion of Takoma Park.

In other words, the staging ceilings for the current Silver Spring/Takoma Park Policy Area already reflect existing and expected development in the annexed portion of Takoma Park as well as its transportation capacity and usage. Therefore, there is no basis for changing the Silver Spring/Takoma Park net remaining capacities because of the annexation.

According to staff's analysis of the parcel file of the annexed portion of Takoma Park shows an existing base of 1,379 jobs and 2,498 housing units. The pipeline of approved

development consists of 0 jobs and 32 housing units. Park and Planning staff would like to note that the processing and analysis of the Prince George's County Takoma Park parcel file required a higher level of effort than initially anticipated. Staff's existing base analysis was cross referenced with Census and with private sector business data, for example. However, staff anticipates that it may identify small adjustments to the existing base totals that should be made before the ceilings are adopted.

Applying the AGP to the Annexed Portion of Takoma Park

Landowners, public officials and staff of the City of Takoma Park requested that this policy element discuss the impact of adding this portion of the City to the Silver Spring/Takoma Park Policy Area. The addition would subject development in that portion of Takoma Park to the AGP's Policy Area Transportation Review. It is staff's opinion that the annexed portion would automatically be subject to the AGP's Local Area Transportation Review, because that test is applied to all areas of the County outside of policy areas.

Policy Area Transportation Review sets the maximum amount of development that can be supported by the County's transportation network, including roads, transit, and non-vehicle forms of transportation. This maximum amount of development is called "staging ceilings" because it is used to "stage" development and "ceiling" often refers to the maximum allowable amount of something. Staging ceilings are set for residential and non-residential development separately and are counted in terms of housing units and jobs. When the AGP refers to a "job" it means the amount of commercial development needed to accommodate one job. For example, in Silver Spring/Takoma Park, one "job" equals 225 square feet of office space or 400 square feet of retail space.

Once staging ceilings are determined, one can determine how much additional development can be approved in that policy area by subtracting the development that has already been built (the "existing base") and development that has been approved but not yet built (the "pipeline"). The amount which remains for new development to be approved is called "net remaining capacity." Silver Spring/Takoma Park has 565 jobs and 2,363 housing units in net remaining capacity, which would be available to development in Takoma Park as well as elsewhere in the policy area.

However, to a great degree, staging ceilings and the Policy Area Transportation Review test will have very little practical impact on the annexed portion of Takoma Park. The area is largely built out and significant additional development is not planned. Staff's review of the redevelopment that is planned indicates that the development capacity needs of the City will be easily accommodated by the net remaining capacity in the Silver Spring/Takoma Park Policy Area.

Staff also notes that certain development previously approved by Takoma Park is exempt from further review following the annexation and would not be subject to APF tests.

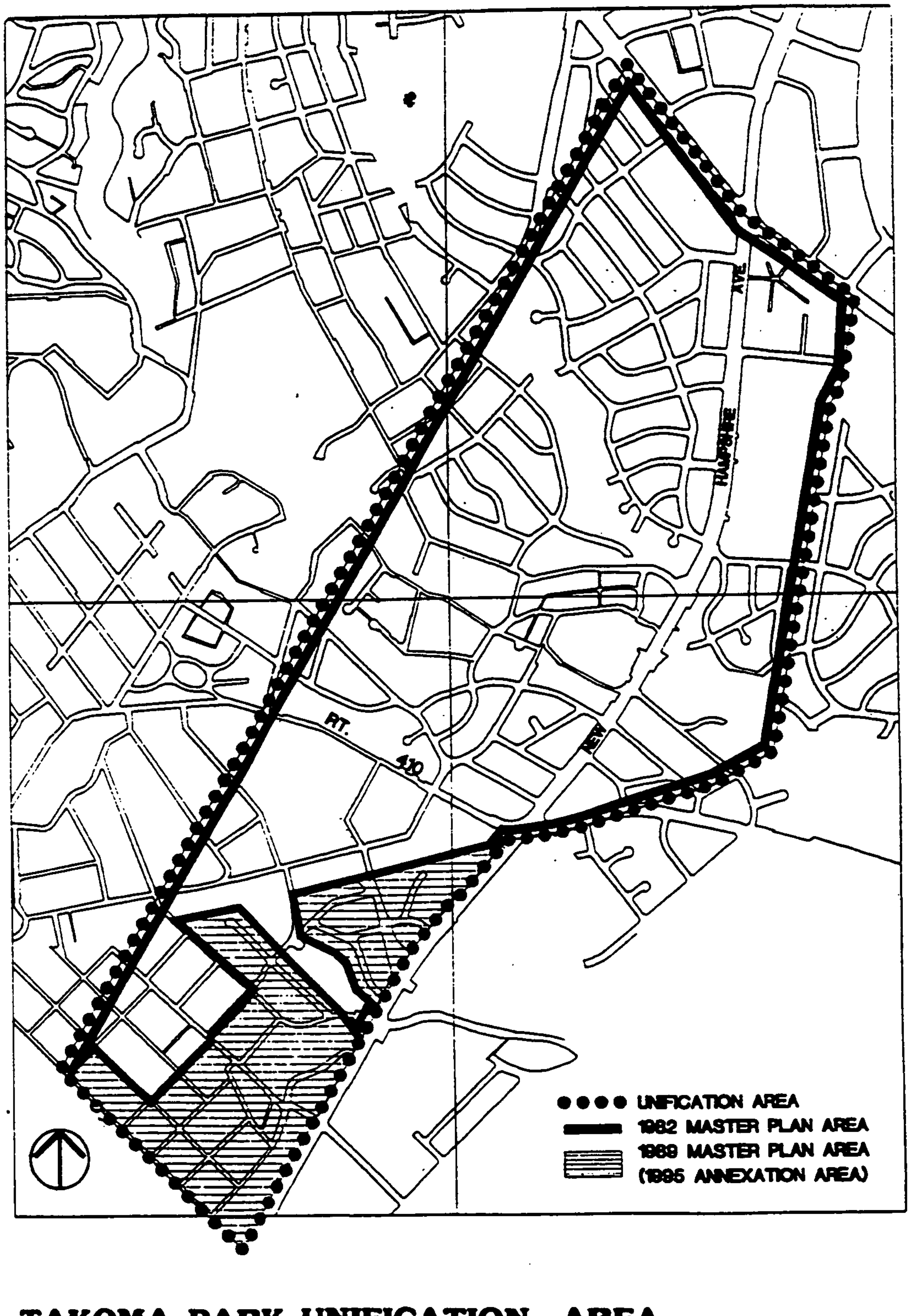
The other AGP test is Local Area Transportation Review, or LATR, which tests the impact of new development on nearby intersections. LATR is only triggered by development that generate 50 or more peak hour auto trips, or by redevelopment that generates

50 or more additional peak hour auto trips. Staff's review of the redevelopment that is planned suggests that none would be subject to LATR because none would result in 50 or more peak hour trips.

Takoma Park staff requested that this policy element elaborate on the conditions under which the PATR or LATR test is triggered. A concern was that consolidation of multiple lots, which would require resubdivision, might therefore trigger an APF test. Park and Planning Department staff notes that lot consolidations, unless accompanied by a request for additional development, would not be subject to the AGP's tests. However, only as outlined above. Staff reiterates that the none of the anticipated development or redevelopment in that portion of Takoma Park will have difficulty passing Policy Area Transportation Review and none of the anticipated development or redevelopment is large enough to trigger the Local Area Transportation Review Test.

Staff's only qualification is that this assessment is based upon currently anticipated development or redevelopment.

This policy element contains a chapter which explains in more detail how the AGP is applied to redevelopment and to modifications to plans for approved but unbuilt development.



TAKOMA PARK UNIFICATION AREA

Issue Nine

Transportation Performance Indicators

One part of the preparation for the AGP Policy Element was an investigation of including performance indicators for the County transportation system in the AGP. Several other jurisdictions in the country are using performance measures for parts of the transportation system, and we have outlined many options for Montgomery County.

A good deal of preparation would be necessary before performance measures could be effectively applied. Just using criteria without clearly defining the goals and objectives to be accomplished and determining the standards for acceptable performance will accomplish little. Establishing these criteria, and then applying and monitoring them can be a valuable tool in guiding policy and program actions. Our recommendation for using these measures is that if the Board and Council feel they are valuable, guidance should be provided in the form of a new AGP topic to be addressed.

Background on performance measurement systems

A review of the literature on performance measurement for transportation systems suggests that several key steps and decisions are necessary.

A performance measure should be related to the accomplishment of a performance goal. What is it we want to achieve?

To judge a measurement, we need a standard. How do we define success, or improvement? What is the right number to compare any actual data against?

When defining goals, objectives, and standards, we need to decide the perspective that we will be using. There are at least three general perspectives for public services that can be appropriate, each perhaps causing a different set of standards, if not different measures. These perspectives are: user, operator, and regulator. Which of these would AGP measures reflect?

In considering transportation system measurements for use by Montgomery County, other specific concerns come to mind.

Can we control performance? Many factors influencing our transportation system are not under our local control. One of the most obvious is the level of traffic on the larger roads, which depends on land activity not just, or even primarily, in our County. Rather, land activity in the surrounding areas will have a significant influence on our higher level highways.

Do the operating agencies agree to participate with us in the measurement setting and monitoring exercise? All transportation services are operated by a County, State or even Regional agency, and we have only indirect access to performance data. These agencies can be expected to cooperate with us, but will want an opportunity to participate in the development of any measures.

Performance Measurement Examples

We have developed the list below to give the Board some ideas on the kinds of performance measures that might be applicable. We admit that these are not as fully developed as would be needed, but they are examples of what is possible.

Transit-Related

Objective: Encourage transit as a commuting mode

Measure: Number of all-day boardings at Montgomery County Metrorail stations.

Standard: increase over the previous year

Current performance: See table. Standard not being met. Perhaps the standard is not valid given the opening of new stations along the red line.

Metrorail Weekday Boardings by Station

Station	1980	1985	1990	1995
Bethesda	0	5,011	7,572	7,502
Forest Glen	0	0	0	1,911
Friendship Heights	0	5,674	8,268	8,499
Grosvenor	0	2,618	3,794	3,457
Medical Center	0	2,715	4,501	3,826
Rockville	0	2,140	3,944	3,483
Shady Grove	0	4,050	9,106	9,061
Silver Spring	16,414	13,445	14,857	11,635
Twinbrook	0	2,345	4,515	3,803
Wheaton	0	0	0	5,608
White Flint	0	2,199	4,333	3,630
Takoma	4,809	5,195	6,227	62,415
Total	**21,223**	**45,401**	**67,117**	**67,593**

Transportation and Land Use

Objective: Encourage development in areas near to Metrorail stations

Measure: Number of housing units and jobs approved as subdivisions within one-half mile of a Metrorail station as a percent of total for Montgomery County each year.

Bus Ridership: Average Weekday Passengers

Bus Mode	1980	1985	1990	1995
Metrobus	49,900	37,300	58,600	52,000
Ride-On	--	*28,000	53,900	58,600
Total	**49,900**	**65,300**	**112,500**	**110,600**

**1986 data.*

Standard: Not yet determined.

Current performance: less than 10 percent for both housing and jobs in 1996 (1997 expected to be better due to Bethesda CBD).

Highway System

Staff have found this to be the most difficult area for performance measurements. We have explored criteria such as Vehicle Miles Traveled (VMT) on various classes of roads, VMT per Montgomery County resident, levels of con-

Montgomery County Vehicle Miles of Travel
(PM Peak Hour)

1985	1990	1998
1,150,000	1,400,000	1,700,000

gestion on different segments, travel time changes, and others. These suffer from shortcomings such as: unavailability of direct data for current or immediate past years, an inability of County policies to influence the measure, and ambiguous or conflicting policy objectives involved. Budget cutbacks have greatly reduced the travel data that is available, although we are working with the County's Advanced Transportation Management System staff to identify possible planning applications for the operational data they do collect.

One example of the complexity of these measures is travel time. Between key origins and destinations, travel time would be a theoretically excellent measure of the changing congestion of our roadway network. However, the data is just not available, and to collect it will be time consuming and expensive until instrumented vehicles tracked by a Geographic Positioning System become available and are allocated to this purpose. Even then, is our policy to keep the travel times down? To do this, we would need an analysis to see if better traffic management could be helpful, or if more roadway capacity was needed.

Staff have found such discussions leading to the recommendation that performance measures cannot be entered into lightly, but must be well thought out. They must also be a joint effort with the operating agencies who will have much of the needed data, and be the primary agencies responsible for making improvements to meet whatever standards are established.

Comparing Our Congestion to That of Others

According to a 1994 evaluation study, 70% of Maryland's 550-mile CHART network (freeways and arterials in the Baltimore-Washington Corridor) of roadways experience recurring congestion, i.e. daily peak period delay, and 38% of that network suffers from significant non-recurring congestion, e.g. more than 15 accidents per mile per year. The table below shows how the Washington, DC urbanized area compares with 35 other urbanized areas in the United State and Canada.

What does all this say?

The Washington, D.C. area is one of the "top ten" urban areas with regard to transportation systems size and use. The area has a highly developed freeway and arterial roadway system, supplemented with a significant transit system. **The miles of freeway per 1,000 persons is 2.6 compared with an average of 3.3 for the 35 urbanized areas.** Freeways make up 3.4% of all roadways and carry 39% of total VMT, typical of most urban areas. Lane miles of roadway are unlikely to increase significantly in the future.

Our freeway system appears to be undersized for the population of this area. It isn't going to grow much on a percentage basis. As population increases, vehicle-miles traveled are likely to increase, even with an expanded transit system.

Comparative Facts About the Washington, DC Urbanized Area

Indicator	Data	Comment
Population	3,240,000	9th largest urban area
Persons per Square Mile	3.95	6th highest of urban areas
Miles of Roadways	8,556	13th highest of urban areas
Miles of Roadway per 1,000 Persons	2.6	Below average of 3.3
Miles of Freeways	287	10th highest of urban areas
Freeway % of All Roadways	3.4	10th highest of urban areas
Lane Miles of Freeways	1,669	9th highest of urban areas
Miles of Arterial Roadways	1,401	11th highest of urban areas
Daily Vehicle-Miles Traveled	64,323,000	10th highest of urban areas
Vehicle-Miles Traveled per Capita	19.9	Average of 35 urban areas
Vehicle-Miles Traveled on Freeways	25,020,000	9th highest of urban areas
Vehicle-Miles Traveled per Freeway Lane-Mile	15,321	8th highest of urban areas
Total Transit Trips	372,400,000	8th highest of urban areas
Transit Trips per Capita	110.7	6th highest of urban areas

Compiled from 1990 highway statistics by the Urban Land Institute. Includes 35 other urbanized areas in the US and in Canada.

Issue Ten

SMBIA's Proposed AGP Amendment

The Suburban Maryland Building Industry Association was expected to release a proposed amendment or alternative to the current process for administering the Adequate Public Facilities Ordinance. As of "press time" for the Staff Draft Policy Element, SMBIA had not yet released their recommendations. Park and Planning Staff will review the proposal promptly upon its release and bring its findings to the Planning Board.

Issue Eleven

Regulations Governing Re-Use of Existing Buildings and Revision of Approved Plans

This is an information item included in this Annual Growth Policy for several reasons. The County's flexibility in allowing the revision of approved subdivision plans relates to the Pipeline Reform issue: how able are developers to change their plans due to changing market conditions? When they "come back," will they be subject to a new round of public facilities adequacy tests?

In addition, the re-use of existing buildings is of current concern to County policymakers. Like other County regulations, it is important to check to see that AGP procedures are not inadvertently inhibiting publicly-desired private actions.

This chapter will also be useful for potential developers in the annexed portion of the City of Takoma Park, who requested information on how the AGP treats re-development proposals.

Requirements for Previously-Approved Subdivisions That Want to Change Their Use

It is not unusual for property owners to request revisions to conditions associated with preliminary plan approvals prior to commencing project construction. Applicants can request a revision to an approved preliminary plan to request a different use or different mix of uses for a site prior to recording a record plat for the property. In this situation, the owner/applicant files an application to revise the approved preliminary plan and this is presented to the Planning Board at a scheduled public hearing. Depending on the nature of the changes proposed, the Planning Board could establish a new validity period for the preliminary plan that would provide additional time, beyond the normal three year period, for recording the record plat. The Board's action, however, would not extend the twelve year time limit for the APFO approval associated with the original preliminary plan approval. Under AGP guidelines, a new APFO test is not required unless the number of trips is increased by the proposed plan revision.

Once a property is recorded by plat, the owner/applicant can still request a revision to the approved conditions by filing either a new preliminary plan to resubdivide the property or a revision to the preliminary plan to revise certain conditions. If the revision involves a change in use or in the amount of proposed development, the recorded APFO agreement may have to be revised depending on whether or not additional trips are proposed. Under the existing AGP guidelines for resubdivisions, a new APFO test would not be required if the number of trips are not increased and the following conditions are

met:

1. If the resubdivision involves more than 2,000 square feet or one percent of the area and if less than three years have passed since preliminary plan approval;

2. If construction has begun on any portion of the site and less than five years have passed since preliminary plan approval;

3. If construction of an APF related road improvement, required as a condition of the preliminary plan, is proceeding as scheduled and less than ten years have passed since preliminary plan approval.

The 3, 5, and 10 year time limits contained in the AGP guidelines for resubdivision do not appear to be appropriate since the overall 12 year time limit associated with the APFO approval was added to the AGP. In addition, these time limits also appear to have been overtaken by the new minor subdivision procedures which allow approval of certain resubdivision plats under a streamlined process, provided that no additional trips beyond those approved for the project and as limited by an APFO agreement, are proposed. Staff believes that the twelve year limit provides a more uniform standard and that the 3, 5 and 10 year limits should be deleted from the AGP.

Loophole Properties

A "loophole property" is a non-residentially zoned lot or parcel recorded prior to January 1, 1982. Emergency Bill 25-89, "Local Area Transportation Review and Traffic Mitigation Plans- Building Permits", and Subdivision Regulation 89-1, "Adequate Public Facilities Assessments- Time Limits" were enacted by the County Council on July 25, 1989, and signed by the County Executive on August 1, 1989. With these two pieces of legislation, a comprehensive process was established for "loophole properties" to:

1. Avoid premature development where public facilities are inadequate, and

2. Promote closer correspondence between public infrastructure conditions at the time of final governmental review and the time of actual development.

The owner or their representative had to register the property before January 1, 1990. For properties that did not register, any proposed new development requires the same APF review as a new subdivision. For registered properties requesting new development of more than 5,000 square feet, a modified APF review is required at the time of building permit as follows:

1. Local area transportation review when a proposed development:

   a. Does not qualify as a partial exemption (described below) and

   b. Generates 50 or more additional peak-hour trips during the morning peak period (7 to 9 a.m.) and/or the evening peak period (4 to 6 a.m.). Additional total trips:

      1) Exclude vehicle trips generated from any existing land uses, and

      2) Include all pass-by, diverted and new trips generated by the proposed land uses.

This requirement differs from the requirements for reviewing preliminary plans where trips from existing land uses are considered.

In some instances, new construction may be over 5,000 square feet, but generate less than 50 additional (total) peak-hour trips during the peak periods. For these situations, the owner must enter into an APF agreement to limit the proposed land uses to those unique uses.

2. *Policy area review when the property is located in a policy area with no net remaining transportation ceiling capacity under the current Annual Growth Policy:*

The property owner must enter into a traffic mitigation agreement with the County to implement a traffic mitigation program whose goal is to: "Increase the percentage of the mode share of "non-auto driver peak-hour trips" (transit users, carpoolers, bicyclists, and walkers) compared with the total peak-hour trips by all transportation modes. "

The legislation provides a partial exemption from full compliance with local area transportation review requirements under certain circumstances and allowed construction cost credits for certain transportation improvements. The partial exemption was provided for property owners significantly far along in the development approval process.

Trip Credits for Existing Buildings

When do we give trip credit for existing buildings? What if the building has been torn down? Any credit then?

It should be the policy of the Planning Board to encourage the reuse of existing buildings. Such reuse is in the economic interest of the County in that it encourages development and discourages lengthy periods of time when buildings remain vacant.

In keeping with this goal, trip credits should be afforded to existing buildings as long as they remain vacant and usable. Should a building be torn down for whatever reason, then the owner should have a period not to exceed three years in order to redevelop the site and receive a trip credit. After three years, the trip credit would be withdrawn.

As an exception to the above practice, areas of the County that are planned for redevelopment; e.g., the Silver Spring Central Business District, should retain their trip credit for an indefinite period even when buildings have been razed. Buildings in redevelopment areas may require maintenance and upkeep that is not practical or economical, and razing the buildings may likely be a better option prior to redevelopment activity taking place.

It is recommended that these practices be administered by the Planning Board under their administrative authority and guidelines rather than as part of the Annual Growth Policy approved by Council.

Measuring the Effect of Advanced Transportation Management Systems

Park and Planning Department staff recommend that the County Council direct the Planning Board, with the aid of the Executive, to evaluate the capacity associated with various Advanced Transportation Management Systems techniques and delegate to the Planning Board the authority to develop revised Policy Area Transportation Review and Local Area Transportation Review guidelines based on its findings.

The purpose of this work effort would be to investigate the value of ATMS system expansion or enhancement by developers in return for credits toward Policy Area Transportation Review or Local Area Transportation Review. The process would involve a working group and discussions involving DPWT staff, Park and Planning staff, Council staff, developers, and traffic consultants as to the potential value, types of projects, and level of credits that would be appropriate for private participation. As with many such investigations, the key will be to encourage private participation using credits commensurate with the benefits expected to the system in terms of reduced congestion.

Montgomery County's Department of Public Works and Transportation (DPWT) has one of the most sophisticated operating ATMS in the United States. It is the first system of its kind to truly integrate traffic and transit operations into one seamless transportation system. The system includes real-time control of all 700+ traffic signals in the County, peak period aerial surveillance, automatic vehicle locators, transit pre-emption for buses, remote control video surveillance cameras, over 1,000 system detectors, traveler advisory radio, television broadcast of current traffic information, and a possible future County-owned radio station.

ATMS allows the existing transportation network to be used more efficiently by using real-time data to help both system operators and users make better-informed decisions about transportation alternatives, e.g. mode and route choice and when to travel. Such decisions could affect both the volume and the capacity of critical locations, e.g. intersections, on the system.

For example, the ATMS can adjust the timing of traffic signals on a minute-by-minute or cycle-by-cycle basis to optimize the efficient use of available green time. Such action could allow more throughput, i.e. critical lane volume, and thus accommodate more traffic at the same level of service.

As another example, travelers can be provided with more accurate and timely information about system conditions, e.g. unplanned incidents. With such information, they can make better-informed decisions regarding mode and/or route choice, as well as the time of day that they choose to travel.

Such decisions can tend to balance the use of the transportation system, both in terms of the use of the total network during a given peak period and in terms of the use of the network during a typical weekday. Such decisions may minimize the peaking characteristics that cause severe congestion and excessive delay on the network.

Private support of ATMS expansion or enhancements will allow growth of the system faster than would be the case using public funds alone. It would also bring a focus from outside consultants and others who may identify new and improved ways of applying technology to make traffic and transportation more efficient or effective.

Issue Thirteen

Productivity Housing and Personal Living Quarters

The Park and Planning Department Staff recommend that Productivity Housing subdivisions be approvable in policy areas with no staging ceiling capacity under the Special Ceiling Allocation for Affordable Housing only when they meet the current definition of "affordable housing" in the AGP. Staff recommend that Personal Living Quarters be exempt from the AGP's transportation tests and schools test during the three-year pilot program.

Background

The Montgomery County Council enacted productivity housing legislation in September of 1996. A "productivity housing" project is defined as new residential development "to build dwelling units for sale or rent at one location where at least 35% of the dwelling units are sold or rented to households with incomes below the area-wide median income." The productivity housing program is available, with special exception approval, in the O-M, C-1, C-2, C-3, C-4, I-1, I-3, and I-4 zones. In these zones, the base residential density of dwelling units per acre may be increased from 6 units per acre to 21.5 units per acre for a productivity housing project.

The County Council enacted personal living quarters legislation in January of 1997. "Personal living quarters," or PLQs, are defined as any building or a portion of a building containing at least six individual living units which must have cooking facilities that the residents share and which may also have shared sanitation facilities; however, individual units may contain a private sanitation facility and equipment for incidental food preparation such as small portable appliances." Individual units in a new PLQ may range in size from 150 square feet to 350 square feet; in a building previously devoted to another use, to 385 square feet. During the pilot period, no more than six buildings will be approved and no more than one in any policy area. The number of individual living units within PLQ buildings is limited to 12.5% of a policy area's gross staging ceiling or 500, whichever is less. (The gross staging ceiling is the total number of housing units -- existing, approved, and yet-to-be-approved -- that the transportation network will support).

Productivity Housing and the Annual Growth Policy

Because productivity housing is new housing that contains a substantial component that is affordable to households earning the area-wide median income or less, the ques-

tion arose as to whether productivity housing should be given the same status as "affordable housing" under the Annual Growth Policy. The AGP contains a provision called the Special Ceiling Allocation for Affordable Housing. This "special ceiling" allows a certain amount of housing to be approved in policy areas that are otherwise in residential moratorium if the subdivision contains a specified percentage of "affordable" housing units. The definition of "affordable housing" in the Special Ceiling Allocation for Affordable Housing text is shown in the box.

Additionally, the question was raised as to whether a project with 100 percent of its units available for sale or rent to households earning the area-wide median or less (as opposed to 35 percent) should qualify under the Special Ceiling Allocation.

Questions were also raised about how the AGP would handle the fact that productivity housing projects would be constructed on commercially-zoned land. In general, zoning is not a consideration in the AGP, but staff agreed that a review of the issues would be helpful.

Productivity Housing and the Special Ceiling Allocation

Park and Planning staff's approach to this question was to examine the types of development which would qualify as productivity housing and compare it to the types of development that could qualify under the Special Ceiling Allocation. Doing so raised several concerns for staff about permitting productivity housing projects (either at the 35 percent level or the 100 percent level) to be approved under the Special Ceiling Allocation.

Staff's first concern is the potential disparity in affordability between productivity housing and affordable housing, particularly for rental units. Rental units which would qualify as productivity housing could charge significantly more for an apartment than the current Montgomery County average market rent. This calculation is based upon an area-wide median income of $63,300. According to the Department of Housing and Community Development, a three-person family earning just 60 percent of the area-wide median income could afford $949 in rent. A three-person family earning 80 percent of the area-wide median income could afford $1,265 in rent. The average rent for a two-bedroom apartment in Montgomery County is $820.

The disparity occurs because the median income of Montgomery County households that own their own homes is higher than the median income of households that rent. At the same time, market-rate rental units are more affordable than market-rate for-sale housing. The estimated 1996 Montgomery County median income for home-owning households is $76,413; the median income for renting households is $39,218.

In other words, the average market-rate rental unit is already affordable to a household earning the area-wide median income. However, it may not be affordable to a household earning the median for renter households. Staff did not believe it was appropriate to allow what could be 100% market-rate rental housing to be approved under the AGP's Special Ceiling Allocation for Affordable Housing.

Staff's concern is that if projects that are 100 percent productivity housing were permitted to be approved under the Special Ceiling Allocation, there would be no incentive for developers to build the more affordable housing now required under the Allocation.

Staff also looked to see if there were a shortage of rental units in the County. Staff felt that a shortage of rental units might justify encouraging their production through the Special Ceiling Allocation. The most recent apartment vacancy rates are for 1996 and are from the Office of Consumer Affairs, Landlord-Tenant Licensing and Registration. The County's overall apartment vacancy rate is 4.4 percent with a total of 2,742 vacant units; the rate for 2-bedroom apartments is 4.7 percent, or 1,378 vacant units. Although these vacancy rates are low, staff does not believe they are low enough to justify new approvals in a moratorium area.

Based on this analysis, staff's recommendation is that productivity housing be subject to the same requirements as any other project requesting approval under the Special Ceiling Allocation for Affordable Housing. Staff notes that this would preclude productivity housing approvals in Fairland/White Oak, which has exceeded the maximum number of units approvable under the Special Ceiling Allocation.

There were other, primarily clarification, issues related to productivity housing and the AGP. The first concerned whether the AGP would treat housing differently that is constructed on commercially-zoned land (this was also raised as an issue with PLQs). The answer is that the AGP is not concerned with the zoning of the land upon which a housing unit is built, and would count productivity housing units the same as "regular" housing units when allocating development capacity.

In a rare case the approval of housing development on commercially zoned land could theoretically raise a staging ceiling issue. This would be if the jobs ceiling in that policy area was set at the zoned holding capacity. Removal of the commercially-zoned land from potential commercial development could mean that the jobs staging ceiling would be higher than the maximum amount of commercial development permitted in that policy area. However, staff notes that determining an area's zoned holding capacity is not an exact science (since some zones allow various types of development) and the issue is not very much different than that of other zones which allow either or both jobs and housing. Conversely, there could be a "shortage" in housing staging ceiling if that staging ceiling assumed that only commercially-zoned land would not use housing capacity. Staff does not believe either case is a cause for concern today but is something to keep in mind.

Another issue concerned a scenario in which a developer has a place in the jobs queue in a policy area, but is interested in pursuing productivity housing. Would the developer have to give up his place in the queue before he received special exception approval of the productivity housing project? Park and Planning staff believe a developer should not have to give up his place in the jobs queue until he has received special exception approval for the productivity housing project.

Personal Living Quarters

The main issue related to PLQ projects was how they should be counted for AGP purposes. Given the nature of the projects and their likely tenants, it can be reasonably

expected that PLQ projects would generate fewer trips than an apartment building with the same number of living units. However, standard trip generation rates are not available for PLQ-type development projects.

Anecdotal evidence suggests that PLQ residents are somewhat less likely to own an automobile than residents of apartment buildings: about 50 percent of the Diamond Square PLQ's residents own cars, according to the management.

There are other uses to which a PLQ is similar, such as apartment hotels and boarding houses. Boarding houses probably have the same trip generation rate as a similarly-sized PLQ, but boarding houses are typically treated as a single housing unit for AGP purposes and would therefore fall under the *de minimis* rule. Even if trip generation rates for boarding houses were available, staff has no confidence in applying those rates proportionately to larger PLQs. The Institute of transportation engineers Trip Generation Manual does not have separate trip generation rates for apartment hotels.

Compounding the issue is the fact that PLQs are expressly defined as not being multi-family dwellings, hotels, motels, inns, apartment hotels, or other uses. PLQs are a single dwelling unit composed of six or more individual living units.

An option would be to apply standard multi-family trip generation rates anyway, knowing that they are too high. This would have a discouraging impact on the construction of PLQ projects during what is a pilot program.

For the AGP school test, staff notes that PLQs will not result in additional demand for school capacity because individual living units are not designed for persons with children.

Given that the total number of Personal Living Quarters projects approvable under the three-year pilot is limited, and given that PLQs will provide very affordable housing without subsidy, Park and planning staff feel that an exemption for PLQ projects from the AGP's transportation and school tests are justified during the pilot program. Staff is concerned that transportation capacity limitations could result in a failure of the pilot due to too few participating projects. Staff also believes that the benefits of additional non-subsidized housing affordable to people renting their first apartments, college students, people working in the area on a temporary assignment, or disabled persons making the transition to independent living, outweighs the possible negative impact of additional traffic, at least for the pilot period.

In the evaluation of the pilot program, however, staff would recommend that attention be paid to the trip-making characteristics of PLQs as much as practicable. This may by necessity be limited to an occasional survey of auto ownership among residents or of their usual means of transportation to work. Staff will also monitor the transportation literature and attempt to develop other sources of information that would allow it to recommend appropriate PLQ trip generation rates.

Staff notes that its recommendation of a total exemption for PLQs to the transportation test and school test would mean that PLQs could be approved in any policy area, including those now closed to the Special Ceiling Allocation for Affordable Housing.

Appendix One

Development Trends

Although modest increases in development activity were recorded in Montgomery County in 1996, overall levels remained historically low. Prospects for a commercial development rebound are buoyed by considerable improvement in pre-construction indicators, such as vacancy rates, rents, and new subdivision approvals. Housing market indicators are somewhat mixed, suggesting that activity above current levels is unlikely in the next year.

As required by the Annual Growth Policy legislation, this report includes a summary of development trends to lend perspective to the consideration of polices which manage growth.

Non-Residential Development

In 1996, non-residential development completions increased to 1.5 million square feet from 1.4 million square feet the year before. This increased was fueled almost entirely by an increase in "other" construction, which grew from 71,000 square feet in 1995 to 458,000 square feet in 1996. "Other" includes government buildings, such as schools and post offices, nursing homes, and hotels. Retail space construction increased less dramatically, from 780,000 square feet in 1995 to 919,000 square feet in 1996. However, office space construction was just 67,000 square feet in 1996, the lowest level of activity in well over a decade.

Although construction activity was low, market conditions for non-residential development improved considerably over the past year. Absorption of vacant office space accelerated in 1996, driving vacancy rates down and rents up. Shortages of the prime Class A office space are now reported in most submarkets. In addition, vacancy rates for Class B and C space, long stuck at high levels, have shown some improvement as well.

Using Realty Information Group's Co-Star database, staff has broken out current (March 1997) vacancy rates by type of space. Montgomery's Class A office space vacancy rate is 5.1 percent; for Class B, 9.1 percent; and for Class C, 15 percent.

This report's "Non-Residential Development Indicators" table shows vacancy rate trends from Spaulding & Slye. This data is useful for trend analysis because it goes back ten years. Those who follow vacancy rate data may notice

Non-Residential Development Indicators

Subdivision Approvals *(in thousands of square feet)*

Year	Office	Retail	Indust/Whse	Other	Total
1991	6,069	1,415	1,094	159	8,738
1992	812	151	26	48	1,038
1993	808	128	1	53	990
1994	1,342	628	0	0	1,970
1995	1,313	493	25	61	1,892
1996	2,237	92	10	226	2,565

Source: M-NCPPC.

Completions *(in thousands of square feet)*

Year	Office	Retail	Indust/Whse	Other	Total
1990	1,172	558	509	232	2,491
1991	950	1,016	933	149	3,048
1992	589	698	103	140	1,530
1993	1,723	780	103	193	2,800
1994	199	281	56	171	706
1995	236	780	285	71	1,373
1996	67	919	90	458	1,534

Source: M-NCPPC and State Department of Assessments and Taxation.

Office Space Inventories *(in thousands of square feet)* and Vacancy Rates

Year	Montgomery		Prince George's		Fairfax Co.		Washington, DC	
1989	25,984	13.8%	12,081	23.2%	48,996	17.6%	74,115	7.6%
1990	28,522	16.0%	12,916	18.4%	51,809	18.5%	75,907	7.7%
1991	30,472	18.0%	14,552	21.7%	62,661	22.9%	82,099	10.4%
1992	30,640	17.6%	15,050	22.4%	62,261	23.3%	86,431	10.3%
1993	30,840	14.3%	15,028	22.3%	61,382	19.9%	88,584	10.6%
1994	33,760	17.1%	14,656	21.1%	61,088	18.8%	85,449	10.9%
1995	36,022	19.3%	14,608	17.6%	60,737	14.6%	88,094	11.2%
1996	35,534	18.5%	14,619	18.1%	61,432	11.2%	91,466	11.2%
1997	35,044	13.7%	14,869	17.7%	61,699	7.7%	91,701	11.4%

Source: Spaulding & Slye

Montgomery County Office Vacancy Rates

Area	1990	1996
Bethesda CBD	19.3%	11.0%
Bethesda-Rock Spring	12.1%	4.6%
Burtonsville	27.2%	21.8%
Chevy Chase	6.1%	9.3%
Kensington	13.4%	19.6%
I-270 Gaithersburg	26.1%	13.8%
I-270 Germantown	7.6%	19.1%
I-270 Rockville	20.3%	10.4%
Rockville Pike Corridor	11.9%	13.2%
Silver Spring CBD	25.6%	31.2%
Silver Spring - Route 29 Corridor	18.9%	15.7%
Wheaton	8.3%	7.6%

Source: Spaulding & Slye

Retail Vacancy Rates

Area	1989	1990	1991	1992	1993	1994	1995
Countywide	2.7%	5.6%	5.3%	6.1%	5.3%	5.1%	6.7%
Metropolitan Areawide	12.0%	16.6%	19.8%	19.6%	16.6%	16.7%	9.0%

Source: Simthy-Braedon-Oncor. 1996 not yet available.

that the rates seem high compared to others reported; that's because Spaulding & Slye do not include owner-occupied space, which by definition has little to no leasable vacant space

The Spaulding & Slye data show Montgomery County's overall office vacancy rate at 13.7 percent, a considerable reduction from its high of 19.3 percent a year ago and about par with the 1989 level. Vacancy rates elsewhere show Fairfax County with 7.7 percent; Washington, DC with 11.4 percent, and Prince George's County with 17.7 percent.

Fairfax County's low vacancy rate is one reason new office building construction has begun in that County. An examination of each case suggests pre-leasing is still a prerequisite for construction of large buildings. In Fairfax County, four major office buildings, ranging in size from 144,000 square feet to 307,000 square feet, are under construction. Two of the four are 100 percent pre-leased; the other two are 62 percent and 49 percent pre-leased respectively.

A less precise measure of the health of the office market is subdivision approval activity, since projects may be approved well in advance of actual construction. Even so, increased approvals do reflect developer perceptions that the market is getting ready to support new construction. Non-residential subdivision approvals surged increased in 1996 to 2.56 million square feet, up from 1.89 million square feet in 1995. "Hot spots" for new approval activity are Rockville, which approved the King Farm, and the Research and Development Village, where the large supply of jobs capacity has been depleted. Park and Planning staff are also reporting that several planned projects in the Bethesda CBD are moving close to coming in for approval.

Montgomery County saw the completion of over 900,000 square feet of retail space in 1996, up from 780,000 square feet in 1995. The 1995 vacancy rate jumped to 6.7 percent in 1995. Montgomery County has historically had low vacancy rates. The rate has averaged about 5 percent in the previous few years, about one-third the metropolitan area-wide level. Area-wide rates declined in 1995 to 9.0 percent.

Residential Construction

Montgomery County's pace of home construction has held relatively steady at about 3,000 units per year since 1991, when 4,700 units were completed. Single-family detached construction has hovered at around 1,500 units for the past four years, while townhouse construction has been in the 800-900 unit range. All of the annual variation is due to multi-family construction because it brings a larger number of units onto the market all at once.

Completion data for 1996 are not yet finalized; the Research and Technology Center staff estimate that completions rose to about 3,500 units in 1996 from just under 3,000 in 1995, largely on the strength of multi-family completions. Multi-family completions will also be a big factor in 1997: staff expects completions to

Residential Development Indicators

Subdivision Approvals *(in units)*

Year	Single Family Detached	Single Family Attached	Multi-Family	Total
1991	1,947	471	3,338	5,756
1992	931	401	531	1,863
1993	1,599	324	1,216	3,139
1994	1,818	93	482	2,393
1995	1,968	1,356	1,518	4,842
1996				

Source: M-NCPPC.

Building Permits *(in units)*

Year	Single Family Detached	Single Family Attached	Multi-Family	Total
1990	1,367	1,075	1,756	4,198
1991	1,189	848	1,055	3,092
1992	1,927	1,146	493	3,566
1993	1,938	1,121	396	3,455
1994	2,145	971	824	3,940
1995	1,923	1,237	1,212	4,372
1996	2,064	1,124	533	3,721

Source: M-NCPPC.

Completions *(in units)*

Year	Single Family Detached	Single Family Attached	Multi-Family	Total
1990	1,327	1,111	832	3,270
1991	914	814	2,994	4,722
1992	1,031	916	1,304	3,251
1993	1,478	858	755	3,091
1994	1,498	896	460	2,854
1995	1,562	809	569	2,937
1996	1,540	990	970	3,500*

*Source: M-NCPPC and State Department of Assessments and Taxation. *1996 is an estimate.*

Home Sales *(in units)*

Year	Single Family Detached		Single Family Attached		Multi-Family	Total
	New	Existing	New	Existing	Combined	
1990	993	7,084	921	5,136	3,549	17,683
1991	692	5,495	806	3,690	2,215	12,804
1992	801	5,811	922	3,637	2,185	13,356
1993	930	5,711	735	3,181	1,805	12,362
1994	959	6,659	797	3,531	1,786	13,732
1995	762	5,287	571	2,954	1,417	10,991

Source: M-NCPPC and State Department of Assessments and Taxation. 1996 is not yet available.

Median Home Prices *(in thousands of dollars)*

Year	Single Family Detached		Single Family Attached		Single Family
	New	Existing	New	Existing	Combined
1990	318	207	158	126	170
1991	309	208	146	128	173
1992	310	217	186	129	183
1993	320	217	181	130	187
1994	320	220	180	131	190
1995	343	221	200	130	190

Source: M-NCPPC and State Department of Assessments and Taxation. 1996 is not yet available.

include 300 units at Edgemoor, 581 units at Somerset House, and 139 units at Pooks Hill.

Montgomery County home sales trends have mirrored construction activity trends in that they fell sharply in the 1991-1992 period (from almost 18,000 sales to about 13,000) and have stayed relatively low since, averaging about 12,000 units sold per year.

Montgomery County Association of Realtors data suggest that an upturn in housing demand may be occurring. The fourth quarter 1996 sales figures were improved over the same quarter in 1995 although the totals for the year were down 4.5 percent from 1995. Home sales were up sharply in the first two months of 1997, but this may be primarily due to better weather.

Median single-family (attached and detached) home sales prices overall are holding constant at about $190,000. Sales of existing homes dominate the overall statistics. New home sales prices continue to climb, however: the median price of a new single-family detached home rose to $343,000 in 1995, a steady increase since 1991. In 1995, the median price of a new townhouse rose to $200,000 for the first time after having been in the $180,000 range for three years.

Median sales prices for existing homes have remained nearly constant since 1992. The median sales price of an existing detached home was $221,000 in 1995, compared with $217,000 in 1992. The median sales price of an existing townhouse was $130,000 in 1995, compared with $128,000 in 1992.

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